

COUNCIL ASSESSMENT PANEL MEETING

9 June 2021

AGENDA – 8.1

Applicant: NBN CO Limited	Landowner: SA Water Corporation
Agent: Adam Pfitzner- Aurecon Group	Originating Officer: Doug Samardzija
Development Application:	20/1005/473
Application Description: Telecommunications facility comprising NBN monopole (maximum height 46m), security chainmesh fencing (maximum height 2.4m) with outdoor cabinets & associated earthworks (non-complying)	
Subject Land: Lots: 10 to 12 Sec: P1293 FP:152770 CT:5279/886	General Location: Crossing Road Mylor Attachment – Locality Plan
Development Plan Consolidated : 8 August 2019 Maps AdHi/3 & 42	Zone/Policy Area: Watershed (Primary Production) Zone - Watershed Protection Policy Area
Form of Development: Non-complying	Site Area: 1256 m ²
Public Notice Category: Category 3 Non Complying - DPC Requested & Private Cert BRC Notice published in The Advertiser on 26/02/2021	Representations Received: 15 Representations to be Heard: 9

1. EXECUTIVE SUMMARY

The purpose of this application is for the construction of a 45 metres high monopole NBN telecommunications tower, which is proposed to be situated at Allotments 10, 11 and 12 Crossing Road, Mylor.

The subject land is located within the Watershed (Primary Production) Zone and Watershed Protection Policy Area 5 as delineated in Map set AdHi/3 and AdHi/42 of the Adelaide Hills Development Plan.

The proposal is a non-complying form of development in accordance with the *Procedural Matters* section of the Watershed (Primary Production) Zone, which identifies that '*All kinds of development are non-complying in the Watershed (Primary Production) Zone except – Telecommunications Facilities below 30 metres in height*'.

The proposed Telecommunications facility is in excess of the prescribed maximum height threshold and is accordingly processed as Non Complying Development.

The proposal has received substantial feedback through the statutory Public Notification process including 15 representations from the public, predominantly from nearby landowners/residents, and unsolicited correspondence from State MP, Rebekah Sharkie, who has advocated on behalf of residents in favour of the proposal (which was not part of the statutory consultation process).

As per the CAP delegations, the CAP is the relevant authority for Category 3 non-complying development where the representors have identified that they wish to be heard in support of their representations.

Pursuant to Section 35 of the *Development Act 1993*, the date of this application, being lodged on 24 September 2020 'post deletion' of Section 35 (3) of the *Development Act 1993*, effective on 15 May 2020 the Relevant Authority will not be required to obtain the concurrence of the State Planning Commission in determining this application.

In consideration of all the information presented, and following an assessment against the relevant zone and Council Wide provisions within the Development Plan, staff are recommending that the proposal be **GRANTED** Development Plan Consent, subject to conditions.

2. DESCRIPTION OF THE PROPOSAL

The proposal is for the following:

- 46 metres maximum height galvanised metal 'monopole' telecommunications tower fitted with headframe to 46 metres and antenna systems fitted at or above 38 metres elevation
- Enclosed 8 metres x 10 metres security compound surrounding the tower and infrastructure, comprising chainmesh & 3-row barbed wire security fencing, galvanised steel poles and gate
- Two (2) ground mounted equipment cabinets dimensioned approximately 0.7m x 0.7m x 1.8 metres height and one (1) mains power meter box
- Site preparation cut to 0.7 metres and fill to 1.2 metres.

The proposed development is to be located within an existing cleared area on Allotment 11, which is devoid of vegetation and is immediately accessible from the formed track within the SA Water Corporation land, (Allotments 10, 11 & 12) and is near to Crossing Road, a formed road located approximately 20 metres to the north.

The site of the proposed development is elevated, at approximately 342 metres AHD with local topography of land rising to elevations of 430 metres AHD and 380 metres AHD to the north-west and south-west (respectively) of the subject site. First order watercourses commence 110 metres to the northwest and 240 metres to the east of the subject site within dense native bushland.

The nearest sensitive receptor (i.e. a dwelling) to the proposed development is situated approximately 120 metres to the north-east of the site, with fourteen (14) dwellings located within 300 and 600 metres of the proposed development.

The proposed plans are included as **Attachment – Proposal Plans** with other information included as **Attachment – Application Information** and **Attachment – Applicant's Professional Reports**.

3. BACKGROUND AND HISTORY

Nil

4. REFERRAL RESPONSES

• NATIVE VEGETATION COUNCIL

The applicant submitted an application to the Native Vegetation Council (NVC) for approval in relation to the clearance of degraded Messmate Stringybark (*Eucalyptus obliqua*) understory totalling 0.0014ha for underground powerline construction along Crossing Road. Further, clearance of four regenerating Varnish Wattles (*Acacia verniciflua*) and degraded understory totalling 0.001ha and pruning of one Messmate Stringybark (*Eucalyptus obliqua*) for installation of double gate access from Smith Road was also applied for. Approval from

Native Vegetation Council has since been granted in relation to these proposed works. The applicant has opted not to sign the Decision Notification Acknowledgment with the Native Vegetation Council until the outcome of the planning decision is known.

- **EPA**

The application was referred to the EPA who advised that:

‘As the referral trigger to the EPA for assessment is non-complying development in the Mount Lofty Ranges Water Protection Area, as per Schedule 8 of the Development Regulations, the EPA has only provided an assessment of the potential water quality impacts that may result from the proposed development. As such, there has been no assessment undertaken of any other potential environmental impacts’.

The EPA have recommended a standard condition be included (refer to recommended *Condition 4*) in relation to a Soil Erosion Drainage Management Plan.

- **AHC OPEN SPACE DEPARTMENT**

The road reserve (area) proposed for vegetation clearance is not registered under the Native Vegetation Marker System. The vegetation is however predominately native and *Eucalyptus obliqua* - Messmate Stringybark.

The Native Vegetation Council would condition the works under the NV Regulations of 2017 if the clearance extends outside the parameters of The Road Side Vegetation Management Plan or the Guidelines for the Management of Roadside Native Vegetation and Regrowth Vegetation, in respect to required trafficable envelope expansion.

Some pruning has occurred, possibly of dead vegetation at the location of Gate 25 (refer to pg 10 of the referral report (reference photograph attached)) and near the entrance of Smith Road.

Open Space Department’s approval is provided subject to Native Vegetation approvals whether by legal exemption or intervention by an NVC Accredited consultant, to ascertain the Regulation, Decision Notification and any applicable offset.

An advisory note has been attached as part of the recommendation from Open Space Department requiring the applicant to provide Council with a signed Decision Notification Acknowledgment with Native Vegetation Council which will need to be verified by Council prior to any works occurring on site (refer *Note 6* in the recommended conditions and notes of consent).

- **AHC ENGINEERING**

Engineering Department reviewed the proposed widening of the access point from Smith Road and advised that they have no objections to the proposed works.

The above responses are included as ***Attachment – Referral Responses***.

5. **CONSULTATION**

The application was categorised as a Category 3 form of development in accordance with Section 38(2)(c) of the Development Act 1993 requiring formal public notification and advertising.

Fifteen (15) representations were received during the public consultation period. Of these nine (9) representations are opposing the proposal, and seven (7) are in support of the proposal. Many of the representations were from adjacent and nearby properties.

The following nine (9) representors have indicated a desire to be heard:

Name of Representor	Representor's Property Address	Appearing / Nominated Speaker
Ken Lynn	23 Smith Road, Mylor	In-person
Sean Carr	497 River Road, Mylor	In-person
Frauke Hobbs	6 Phillinda Lane, Mylor	In-person
Chris & Narelle Whiting	11 Boucaut Lane, Mylor	In-person
Peter & Paula Ashforth	10 Boucaut Lane	In-person
Lucy Quigley-Smith & Matt Smith	133 Crossing Road, Mylor	Represented by Tom Game, Botton Levinson.
Susanne Koen	26 Silver Lake Road, Mylor	In-person
Graham & Deborah Davidson	159 Crossing Road, Mylor	In-person
Stephanie Dallwitz	51 Smith Road, Mylor	In-person

The issues contained in the representations can be briefly summarised as follows:

- Need / necessity for the new facility
- Electromagnetic Energy / Radiation (EME/EMR) and human health
- Compliance with Safety Standards
- Consultation processes
- Site selection / appropriateness
- Physical Access to the site
- Visual impact
- Compliance with the Development Plan provisions
- Environmental impact
- Further co-location and proliferation of additional infrastructure
- Property values

As the panel would be aware, only those issues relating to Development Plan considerations can be taken into account as part of the planning assessment process. However the issues raised by the representors are addressed below.

Need / necessity for the new facility

Whilst the proper distribution and limitation or encouragement of certain forms of development is a crucial part of proper strategic and policy planning (establishing the '*planning rules*' within the Development Plan, or in the *Code* from March 2021 onward), it is not a matter for development assessment, which must assess against the proposal against the *Development Plan in force at the time of lodgement*.

The development assessment process cannot determine if any particular form of development is needed or not. Necessity is driven by many other factors including business markets, commercial competition and public need (which are not always shared as common interests of the whole of the public).

Electromagnetic Energy / Radiation (EME/EMR) and human health

EME is not a planning consideration and telecommunication providers are subject to the meeting of relevant standards set by the *Australian Radiation Protection and Nuclear Safety Agency* (ARPANSA). EME limitations are routinely 10,000 times higher than the EME from telecommunications facilities. As a comparison, it is noted that higher EME levels are recordable in front of a household television than from a telecommunications tower such as the one proposed.

Compliance with Safety Standards

This is a matter beyond the scope of Council's powers to undertake planning assessment of a development application, as prescribed in Section 33 (1)(a) of the Act – for the purpose of Development Plan Consent, the assessment is made against *the appropriate Development Plan* for the area of the state in which the development is proposed *and in some instances case law is used as an aid to interpretation*.

Safety Standards are not a relevant element of a planning assessment – except for the standards set by the Development Plan in the form of *Objectives* and *Principles* and defined *Procedural Matters*.

Consultation processes

Statutory processes for public notification have been undertaken in compliance with the Development Legislation.

Site selection / appropriateness

This is a planning assessment criteria which is discussed in detail later in this report.

Property valuation

This is not a matter required to be assessed or addressed under the Development Legislation or Development Plan. The applicant has addressed all planning related matters extensively in their response document (**Refer Attachment- Applicant's Response to Representations**).

Matters relate to the planning assessment are discussed in detail in the following sections of the report.

A copy of the submission is included as **Attachment – Representations** and the response is provided in **Attachment – Applicant's Response to Representations**.

6. PLANNING & TECHNICAL CONSIDERATIONS

This application has been assessed in accordance with the following matters:

i. The Site's Physical Characteristics

The subject land (Allotment 11) is 6.94 hectares in area and is part of a larger area of land held by SA Water Corporation, with some 48 land titles making up part of its Mount Bold Reservoir reserve.

The land is substantially covered with native woodland and is undulating with few small open areas, and some established internal vehicle tracks.

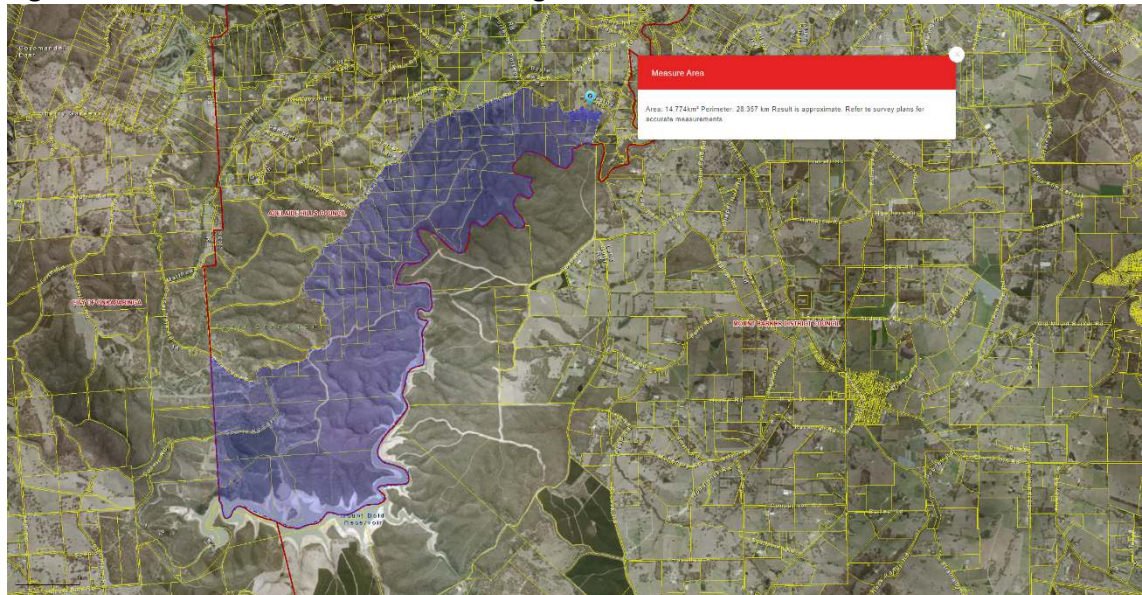
ii. The Surrounding Area

The SA Water Mt. Bold Reservoir reserve stretches across Adelaide Hills, Mount Barker and Onkaparinga Council areas and has a total area in excess of 55 square Kilometres (or 5500 Hectares) with 14.77 square kilometres (or 1440 Hectares) within the Adelaide Hills Council area (refer to **Figure 1** below). This reserve makes up the vast majority

between the south and west boundaries of the site, with rural living development established to the north and east.

The prominence of the landscape and its elevation means that the proposed tower will be somewhat prominent within the landscape, and may be seen from the surrounding areas, particularly to the north and immediately northeast where flatter topography prevails and therefore has less visual interruption of the proposed tower.

Figure 1 Extent of the SA Water Landholding within AHC Area.



Source: SAPPA

There are many other examples of towers within the Adelaide Hills and southern Mount Lofty ranges which have been in existence for many years. Beyond their immediate visual impacts when first developed, these existing towers are not considered to be overtly prominent in the landscape, unless they are seen as landmarks.

Some relevant examples of landmarks include:

- 'Trig Point' telecommunications and meteorological Station (near Myponga),
- 'Mount Terrible' telecommunications and meteorological station (near Sellicks Hill),
- Mount Lofty Fire Tower and TX Australia television broadcast Tower, amongst many others and innumerable High voltage power line towers crossing the Mount Lofty Ranges.

This is relevant to the assessment noting the Environment, Resources and Development Court (ERDC) Case of Telstra Corp. P/L. vs City of Holdfast Bay 2008 (SAERDC47/2008) in which 'vertical elements' within the locality, including built form, such as poles and other towers, and natural elements such as trees, were taken into account for evaluating the impact of a proposed new telecommunications tower. This must also be weighed up against the visual impact of the proposed tower within the surrounding natural environment and the proximity at which it will generally be viewed.

iii. Development Plan Policy considerations
a) Policy Area/Zone Provisions

The subject land lies within the Watershed (Primary Production) Zone - Watershed Protection Policy Area and these provisions seek:

- *to maintain and enhance natural resources of the Mount Lofty Ranges particularly water resources.*
- *to protect the long term sustainability of primary production activities.*
- *to enhance amenity and landscape value through preservation and restoration of native vegetation.*
- *to enhance the amenity and landscape of the south Mount Lofty Ranges for the enjoyment of residents and visitors and to support and develop the tourism industry with accommodation, attractions & facilities and increase visitation and overnight stays in the region.*

The Policy Area in particular reinforces the avoidance of pollution of surface or underground water resources and *maintenance of a pleasant, attractive rural landscape.*

The following are considered to be the relevant *Watershed Protection Policy Area* provisions:

Objectives: 1 & 2

PDCs: 1, 4 & 5

The following are considered to be the relevant Watershed (Primary Production) Zone provisions:

Objectives: 1, 2, 3, 4, & 5

PDCs: 1, 11, 14, 15, 16, 17, 28, 32, 36, 70(non-complying list item)

Accordance with the Watershed (Primary Production) Zone and Watershed Protection Policy Area

The proposal is not offensive or prejudicial to the objectives of the W(PP) Zone or the Objectives of the Watershed Protection Policy Area, which both place a large emphasis on development not prejudicing the sustainability or quality of water resources in the Zone / Policy Area and not undermining the potential for primary Production land uses to prevail.

It is noted that apart from the construction phase (at which point reasonable attenuation measures are to be employed), that the proposed development will not have any adverse effect upon water resources, which has been confirmed by the EPA's mandatory referral response.

Both the Zone and the Policy Area identify that the landscape quality and amenity is to be enhanced for the enjoyment of residents and visitors.

At Zone level, the proposed tower accords the objectives quite satisfactorily, and is considered highly unlikely to have adverse effect on the zone's use, preservation of water resources or amenity and landscape quality.

At a much more localised level, it is apparent from the eight opposing representations that there is a concern of the tower component of the development impacting upon amenity and enjoyment of the visual characteristics of the natural environment. At very least there is a stronger anticipated impact within a radius of approximately half a kilometre of the site, and particularly in the northeast to north-west quadrant.

It is not considered that the introduction of a monopole tower, which is minimalistic as far as towers can be in terms of visual impact, will be of such significance that it would preclude the development. It is noted that the Zone does not provide outright rejection for Telecommunication Towers (PDC 70), and only those which exceed 30 metres in height are defined as 'non-complying.'

The effect of the further 16 metres in elevation over the prescribed non-complying threshold should therefore be considered in context of the locality (which is undulating and hence the need for the extra height) and its relative isolation in the broader landscape.

In this locality, the tower is substantially distant from major points of public outlook, such as the townships of Mylor or the scenic/tourist routes identified in Figure AdHi(EC)/1 in the Development Plan, or from other distant outlooks from which the 'intact natural characteristics' of the Adelaide Hills are contextually most relevant.

Form of Development

As foreshadowed above, the development of Telecommunication facilities within the zone is not dismissed outright within the zone, but triggers a more rigorous assessment of any facilities exceeding 30 metres in height.

Appropriateness of Proposal in Locality

The proposed development is highly unlikely to create a conflicting land use and is located well away from the nearby sensitive receptors which will mitigate any potential minor noise impacts from the cooling/ventilation for the equipment cabinets, and the visual impact of the base of the tower and chainmesh compound fencing.

Telecommunication facilities are generally considered to be most acceptable within *industrial, commercial, business, centre and rural zones* (Council Wide Telecommunications Facilities PDC 1). The proposal is not inconsistent with other comparable telecommunications infrastructure and power transmission infrastructure within the broad locality. High voltage infrastructure (including lattice towers) also crosses the Mount Bold reserve approximately 3.3 kilometres south of the proposed development.

Appearance of Land and Buildings

The zone and policy area provisions seek that buildings will achieve minimal visual impact in terms of design and siting. These are not particularly specific or applicable to structures like telecommunications towers. More specific provisions exist and are addressed within the Council Wide *Telecommunications Facilities* provisions.

Conservation

It is considered that the proposed development does not represent any conflicts with the conservation values of the Zone or Policy Area. The proposal will not have significant impact on native vegetation with:

- clearance of 0.0014ha of degraded Messmate Stringybark (*Eucalyptus obliqua*) understory for the underground powerline construction along Crossing Road
- clearance of 0.001ha of four regenerating Varnish Wattles (*Acacia verniciflua*) and degraded understory, and
- pruning of one Messmate Stringybark (*Eucalyptus obliqua*) for installation of double gate access from Smith Road proposed.

This vegetation removal has been authorised by Native Vegetation Council as well as Adelaide Hills Council's Open Spaces Department. The proposed impacts of these works have been identified in the applicants ecological survey (refer to the **Attachments**).

b) *Council Wide provisions*

The *Council Wide* provisions of relevance to this proposal seek (in summary):

- *appropriate segregation of certain forms of development within appropriate zones or areas.*
- *orderly and sustainable development.*
- *avoidance of incompatible land uses.*
- *Appropriate limitations to design, height, bulk and visual/aesthetics.*

The following are considered to be the relevant Council Wide provisions:

Telecommunications Facilities

Objectives: 1 & 2

PDCs: 1, 2 & 4

Objective 1 purports that *Telecommunications facilities provided to deliver communication services to the community*, meaning that such development is intended to be practical and efficient at delivering services to the community. Inefficient or compromised design or siting creates inefficiency and propagates the need for further development and proliferation of more facilities to serve community needs. This can be read also in conjunction with *Orderly and Sustainable Development* PDC 5: *Development should be located and staged to achieve the economical provision of public services and infrastructure, and to maximise the use of existing services and infrastructure*, to be efficient and economical.

Objective 2 seeks that Telecommunications facilities will be *sited and designed to minimise visual impact on the character and amenity of the local environment*. This is also highly relevant to the abovementioned provisions, to ensure that the potential for poorly designed and proliferation of new services will create incremental impacts on landscape qualities in any given area.

The locality in which this tower is proposed is not considered to be of high visitation, with the vast majority of the surrounding land being located within the SA water reserve which is not publicly accessible except for the reservoir itself. The Heysen Trail traverses land approximately 1.7 kilometres to the east of the subject site, but no notable public trails exist near Crossing Road or the north and eastern aspects of the

Mount Bold reserve. Lastly, Scott Creek Conservation Park commences some 3.8 kilometres to the southwest.

Siting and Visibility

Objective: 1

PDCs: 1, 5, 7 & 9

Orderly and Sustainable Development

Objectives: 3 & 4

PDCs: 1 & 5

Further to the *Orderly and Sustainable* and *Siting and Visibility* provisions already addressed above, the proposal does not, in any way *jeopardise the continuance of adjoining authorised land uses* and does not *prejudice the achievement of the provisions of the Development Plan* insofar as they relate to water resource preservation and security and potential for primary production pursuits in the more arable rural areas within the zone.

As is relatively common with Telecommunication facilities, the development is sited somewhat remotely, in a position where it can obtain optimum coverage of the target community where services are to be delivered, in this case, by wireless NBN service. Siting remotely is intended to minimise visual impact, but inevitably affects a small number of nearby premises and occupants.

Concerns raised by representors that the telecommunications tower is equivalent to a 15 storey building do not address the fact that the tower lacks the equivalent breadth and bulk). The representors concerns that it will overshadow adjacent houses are not in the traditional planning sense of building obstructing natural light. This is a monopole design which will cause minimal shadowing within the nearby locality.

As previously detailed the siting is considered not to interfere with areas of high visitation and avoids *walking trails* such as the Heysen Trail, *recreation reserve* areas such as Mount Bold Reservoir and acknowledged *scenic routes*.

The proposed development requires a small degree of earthworks and a new access to be formed for the purpose of establishing the facility. After the construction is complete, the vehicular access will not need to be maintained to the same degree as required to get heavy vehicles and materials into the site during the construction phase.

The proposed development utilises materials which, initially will be shiny and will stand out in the environment. However, experience shows that galvanised metal (not zinc or other coatings) will 'patina' to a dull grey colour in time. The dulled resultant finish is reasonably compatible in the natural environment, including where it is superimposed against the skyline and will be less visible. However, it will not be boldly apparent and in many cases such monopole towers are not readily visible at a distance without trying to identify them in the landscape.

7. SUMMARY & CONCLUSION

The proposal has been assessed against the relevant provisions of the Adelaide Hills Development Plan (Consolidated 8 August 2019) and is considered to demonstrate adequate merit insofar that it can suitably blend in with the surrounding natural environment of the locality in which it will be situated.

The proposal is of a regular standard of design for its intended purpose and it is considered that no advantage could be had by utilising a different form of tower, such as a lattice tower (which would be more visually dominant), or a slimline guyed lattice mast, which is not substantially different in appearance or bulk.

The proposed development inevitably creates an impact at close interface with surrounding residences. These impacts, within the bounds of the *Development Plan assessment* are limited to visual impact, and are in most cases (but not necessarily all cases) not within the immediate dominant views from established dwellings. These dwellings' principal orientations are from the north to the east, and not to the south or south-west in the direction of the proposed tower.

The proposed development is predominantly inconspicuous to the broader locality in which it sits and does not disfigure the natural environment from broader outlooks.

It is noted that the concerns expressed by representors regarding EME, impact on property values and safety standards, are not matters which can be considered as part of the assessment process. As far as the issue of EME is concerned, it is noted that all telecommunications providers have to meet the ARPANSA requirements in order to minimise any potential impacts on human health.

The proposed development is not considered to be seriously at variance with the Development Plan and in the view of staff, the proposal has sufficient merit to warrant consent. Staff therefore recommend that Development Plan Consent be **GRANTED**, subject to conditions as detailed below.

8. RECOMMENDATION

That the Council Assessment Panel considers that the proposal is not seriously at variance with the relevant provisions of the Adelaide Hills Council Development Plan and GRANTS Development Plan Consent to Development Application 20/1005/473 by NBN CO Limited for Telecommunications facility comprising NBN monopole (maximum height 46m), security chainmesh fencing (maximum height 2.4m) with outdoor cabinets & associated earthworks (non-complying) at Crossing Road Mylor subject to the following conditions:

(1) Development In Accordance With the Plans

The development herein approved shall be undertaken in accordance with the following plans, details and written submissions accompanying the application, unless varied by a separate condition:

- Site specific notes prepared by Aurecon, drawing number 5STI-51-08-MYLO-C1 revision 02 last dated 15/09/20 and date stamped by Council 10/02/2021
- Overall site plan prepared by Aurecon, drawing number 5STI-51-08-MYLO-C2 revision 02 last dated 15/09/20 and date stamped by Council 10/02/2021
- Site setout plan prepared by Aurecon, drawing number 5STI-51-08-MYLO-C3 revision 03 last dated 01/02/2021 and date stamped by Council 10/02/2021
- Site elevation and details prepared by Aurecon, drawing number 5STI-51-08-MYLO-C4 revision 03 last dated 01/02/2021 and date stamped by Council 10/02/2021
- Site earthworks plan and elevations prepared by Aurecon, drawing number 5STI-51-08-MYLO-C5 revision 01 last dated 01/02/2021 and date stamped by Council 10/02/2021

- Access track earthworks plan and elevations prepared by Aurecon, drawing number 5STI-51-08-MYLO-C6 revision 01 last dated 01/02/2021 and date stamped by Council 10/02/2021
- Site earthworks notes prepared by Aurecon, drawing number 5STI-51-08-MYLO-C7 revision 01 last dated 01/02/2021 and date stamped by Council 10/02/2021
- NBN antenna configuration & setout plan prepared by Aurecon, drawing number 5STI-51-08-MYLO-A1 revision 03 last dated 01/02/2021 and date stamped by Council 10/02/2021
- Boundary setout plan prepared by Aurecon, drawing number 5STI-51-08-MYLO-C3 revision 01 last dated 29/10/20 and date stamped by Council 10/02/2021

(2) **Commercial Lighting**

Flood lighting shall be restricted to that necessary for security purposes only and shall be directed and shielded in such a manner as to not cause nuisance to adjacent properties.

(3) **External Finishes**

The external finishes to the building herein approved shall be as follows:

Monopole: Galvanized steel or similar

(4) **Prior to Building Consent Being Granted - Requirement for Soil Erosion And Drainage Management Plan (SEDMP)**

Prior to Building Consent being granted the applicant shall prepare and submit to Council a Soil Erosion and Drainage Management Plan (SEDMP) for the site for Council's approval. The SEDMP shall comprise a site plan and design sketches that detail erosion control methods and installation of sediment collection devices that will prevent:

- a. soil moving off the site during periods of rainfall;
- b. erosion and deposition of soil moving into the remaining native vegetation; and
- c. soil transfer onto roadways by vehicles and machinery.

The works contained in the approved SEDMP shall be implemented prior to construction commencing and maintained to the reasonable satisfaction of Council during the construction period.

NOTES

(1) **Development Plan Consent (DPC) Expiry**

This Planning Consent is valid for a period of twenty four (24) months commencing from the date of the decision.

Building Consent must be applied for prior to the expiry of the DPC.

(2) **Erosion Control During Construction**

Management of the property during construction shall be undertaken in such a manner as to prevent denudation, erosion or pollution of the environment.

(3) EPA Environmental Duty

The applicant is reminded of his/her general environmental duty, as required by Section 25 of the Environment Protection Act 1993, to take all reasonable and practical measures to ensure that the activities on the whole site, including during construction, do not pollute the environment in a way which causes, or may cause, environmental harm.

(4) EPA Information Sheets

Any information sheets, guideline documents, codes of practice, technical bulletins, are referenced in this decision can be accessed on the following web site:
<http://www.epa.sa.gov.au/pub.html>

(5) Environment Protection (Water Quality) Policy 2015

The applicant is advised that the Environment Protection (Water Quality) Policy 2015 came into effect on 1 January 2016. Therefore, all reasonable and practicable measures must be put in place to prevent or minimise environmental harm during the construction process.

(6) Decision Notification Acknowledgment with Native Vegetation Council

The applicant is reminded that a Decision Notification Acknowledgment must be signed with Native Vegetation Council. This acknowledgement must be provided to Native Vegetation Council and Adelaide Hills Council for verification prior to pruning or removal of any native vegetation.

9. ATTACHMENTS

Locality Plan
Proposal Plans
Application Information
Applicant's Professional Reports
Referral Responses
Representation
Applicant's response to representations

Respectfully submitted

Concurrence

Doug Samardzija
Statutory Planner

Deryn Atkinson
Assessment Manager

COUNCIL ASSESSMENT PANEL MEETING

9 June 2021

AGENDA – 8.2

Applicant: GE Hughes Construction Co	Landowner: Hughes Properties Pty Ltd
Agent: Peter Meline	Originating Officer: Melanie Scott
Development Application:	19/532/473
Application Description: Change of use to include a transport depot and extend an existing vehicle hardstand, retaining walls, combined fence and retaining wall (maximum height 3 metres), 2 x 28000 litre fuel storage pods, storage building, outbuilding for truck wash equipment, 2 x 20000 litre water tanks & associated earthworks	
Subject Land: Lot:3 Sec: P5140 FP:125204 CT: 5220/438	General Location: 4 Brettig Road Lobethal
	Attachment – Locality Plan
Development Plan Consolidated : 8 August 2019 Maps AdHi/12/55	Zones/Policy Areas: Light Industry Zone - Light Industry (Lobethal North) Policy Area, Watershed (Primary Production) Zone - Onkaparinga Valley Policy Area
Form of Development: Merit	Site Area: 12.5 hectares
Public Notice Category: Category 2 Merit	Representations Received: 3 Representations to be Heard: 2

1. EXECUTIVE SUMMARY

The purpose of this application is to further develop an existing industrial site, owned and operated by Hughes Construction at 4 Brettig Road Lobethal, immediately north of the township boundary of Lobethal.

The proposal seeks to establish an extension to its existing hard-stand area, to be utilised for the parking of up to 76 heavy single unit, articulated/ combination trucks and earthmoving machinery, as an extension of the existing land use on the subject land, and the establishment of new buildings and structures including:

- A proposed truck wash and storage building and associated water tanks
- Covered canopy structure (storage bays)
- Two fuel pods (containerised commercial fuel storage and dispensing units)
- Combined fence and retaining wall structure
- Associated earthworks and drainage works.

The subject land is located within the Light Industry Zone and within the Light Industry (Lobethal North) Policy Area as well as the Watershed (Primary Production) Zone - Onkaparinga Valley Policy Area. The proposal is entirely within the Light Industry Zone - Light Industry (Lobethal North) Policy Area. No works are proposed within the Watershed (Primary Production) Zoned portion of the subject land.

The proposal is determined to be a merit Category 2 form of development as the location of the proposed development is immediately adjacent to land within a different zone.

The application has undertaken statutory public notification processes and received three (3) representations of which two (2) are in opposition and the other provided general advisory comments from the electricity network authority, SA Power Networks, during the public notification period.

As per the Adelaide Hills Council Instrument of delegation made pursuant to Section 102 (1) of the Planning, Development and Infrastructure Act 2016, the CAP is the relevant authority for, *'Development applications for development where there are opposing representations which have requested to be heard in response to a Category 2 or 3 public notifications'*.

The main issues relating to the proposal include neighbouring landowners' concerns regarding stormwater and mobilised pollutants, existing and increased light-spill, traffic movement, associated noise and pollution concerns, proximity to dwellings and privacy to adjoining land. Development Plan policy implications include building scale, height and bulk, and visual amenity from nearby points of public outlook including Kenton Valley Road.

In consideration of all the information presented, and following an assessment against the *Light Industry Zone, Light Industry (Lobethal North) Policy Area* and Council Wide provisions within the Adelaide Hills Development Plan, staff are recommending that the proposal be **GRANTED** Development Plan Consent, subject to conditions.

2. DESCRIPTION OF THE PROPOSAL

The proposal comprises the following elements:

Truck wash and storage building (and associated water tanks)

The proposed truck wash and storage building is 36 metres in length and 17 metres in width (including the water tanks for stormwater collection / recycled washing system water supply). The maximum proposed height is 7.2 metres roof ridge height above natural ground level) with 'lean-to sides to the main shed portion of 5.3 metres wall height (connection at western side wall / roof line) and 3 metres wall height (connection at 4 metres height on eastern side wall).

The proposed building is to be upon a prepared pad on a gently sloping site with a maximum of approx. 0.4 metres fill at the southern portion of the building's footprint.

The two associated tanks are 3.6 metres diameter x 2.5 metres total height of approximately 22,000 litres each are situated in the 'inset' of the eastern side wall of the building. The eastern side of the building is not viewed from Kenton Valley Road to the west.

The proposed truck wash and storage building is to be situated approximately 119 metres from the Kenton Valley Road frontage, and is approximately 36 metres from the nearest part of the southern property boundary. The building is in excess of 270 metres from the Brettig Road frontage (primary frontage and access) and in the order of 220 metres from the eastern property boundary.

The proposed building maintains substantial separation distances from the existing and proposed buildings and structures situated on the land.

The proposed building is to be finished in Colorbond © metal deck wall and roof sheeting in 'pale eucalypt' and the same finish is also proposed for the tanks.

Covered canopy structure (implement storage bays)

The proposed covered canopy structure has a length of 29 metres x 9.46 metres width x 5.1 metres maximum skillion roof height above natural ground level.

The proposed building is to be upon a prepared pad excavated up to 2.8 metres deep into the site, with battered banks at the southern portion of the building's footprint.

The proposed building is to be situated approximately 92 metres from the Kenton Valley Road frontage, and approximately 183 metres from the nearest part of the southern property boundary. The building is in excess of 150 metres from the Brettig Road frontage (primary frontage and access) and in the order of 240 metres from the eastern property boundary.

The proposed building is to be finished in Colorbond © metal deck wall and roof sheeting in 'pale eucalypt'.

Two fuel pods (containerised commercial fuel storage and dispensing units)

The proposed fuel pods take the form of a '20 ft. shipping container', 6.05 metres length x 2.28 metres width x 2.89 metres height to be set upon elevated pads constructed on the site to a height of approximately 0.2 to 0.6 metres above natural ground level. It is understood the fuel pods are self bunded.

The proposed fuel pods are to be situated approximately 100 metres from the Kenton Valley Road frontage, and approximately 155 metres from the nearest part of the southern property boundary (approximately 80 metres north of the proposed truck wash building and 18 metres south of the covered canopy) and in excess of 230 metres from the eastern property boundary.

The finish of the proposed fuel pods is white.

Retaining walls

Concrete block retaining walls are to be installed along 75 metres of the southern property boundary with a height of 1 metre above ground level, establishing the southern edge and the finished level of the proposed hardstand area. It is proposed to have a 1.5 metre high Colorbond © fence in "pale eucalypt" atop this retaining wall as a result of negotiations with a representor.

Associated earthworks and drainage works.

Earthworks include bunds, drainage swales and stormwater detention and filtration channel comprised of 1 metre concrete blocks set into the ground, located in the south-west corner of the site to arrest any sediment mobilised in stormwater run-off from the hardstand area.

No vegetation is proposed to be removed from the site. The truck wash building maintains a setback of 10 metres from the nearby watercourse to the east which is to remain unaltered.

The proposed plans are included as **Attachment – Proposal Plans** with other information included as **Attachment – Application Information** and **Attachment – Applicant's Professional Reports**.

3. BACKGROUND AND HISTORY

16/205	Storage building, retaining wall (max height 3m) and associated earthworks	Development Approval 10 August 2016
15/340	Non illuminated advertisements on face of building	Development Approval 10 September 2015
15/29	Variation to development authorisation 473/75/13 for increased truck parking area and include staff parking and storage of plant/equipment in conjunction with existing light industry	Development Approval 29 January 2015

13/697	Two storey alterations and additions to existing office building including upper level balcony	Development Approval 6 June 2014
13/75	Change of use from grazing to truck with trailer parking (maximum of 14 trucks and trailers) and associated earthworks in conjunction with existing light industry	Development Approval 5 March 2013
11/591	Staged development-STAGE 1 Storage shed (24m x 15m x 4.240m height) storage shed (24m x 15m x 4.240m height) including 2 x 27,000 litre water storage tanks, associated earth works and landscaping, extension to vehicle storage shed (7.765m x 27.4m x 4.3m maximum wall height) storage (21.175m x 9.895m x 3.9m maximum wall height) & the removal of one (1) significant tree- Pinus Radiata (Monteray Pine) STAGE 2 - General industry building with mezzanine floor (42.3m x 39.8m x 10.9m maximum wall height) including 2 x 27,000 litre water storage tanks and associated earthworks and landscaping.	Development Approval 28 October 2011
11/41	Addition to General industry building	Development Approval 11 March 2011
10/1268	Significant tree removal	Development Approval 21 December 2010
10/1132	Demolition of an existing derelict cottage and an outbuilding	Development Approval 1 November 2011
10/947	Construction of a new workshop and a new farm building and associated earthworks to be used in conjunction with exiting general industry and farm uses, warehouse and truck storage	Development Approval 26 October 2011
09/693	4 x advertising displays	Development Approval 10 August 2009
07/1030	Alteration and additions to existing office/warehouse	Development Approval 20 December 2007
07/697	Warehouse – shed (measuring 20m x 24m x 5m wall height)	Development Approval 2 May 2008
06/61	Retaining wall and associated landscaping	Unknown - no record of when this was approved
03/952	Implement shed	Unknown - no record of when this was approved
03/880	Signage	Unknown - no record of when this was approved
01/336	Work depot and offices	Unknown - no record of when this was approved

4. REFERRAL RESPONSES

Mandatory Referrals

The proposed development is not subject to any mandatory referrals pursuant to Schedule 8 of the Development Regulations 2008, specifically noting that:

- (i) The bulk storage of petroleum product on the site falls well below the prescribed volume to require referral to the Environment Protection Authority in accordance with Schedule 21 of the Development Regulations, as the threshold for petroleum product storage is 100 cubic metres (or 100,000 Litres).
- (ii) The proposal does not propose any vehicular access directly to Kenton Valley Road (DIT controlled Secondary Arterial Road) and accordingly did not require a referral to the Minister for Transport (DIT).

Internal Referrals

Council Engineering team have reviewed the proposal and provided the following requirements:

- (i) That scour protection on the eastern batter of the hardstand will be required to resist erosion by floodwaters from the adjacent eastern watercourse during 1% AEP events.
- (ii) That ponding water in the south east corner will scour between the concrete blockwork if gaps are not sealed. Ensuring no gaps between blocks or sealing is crucial to avoid surcharge, scouring and discharge of sediment laden water.
- (iii) Detailed design / engineering regarding the overflow mechanism from the bio-filtration area via the 6m weir is required to confirm the design rate of discharge to the local stormwater systems.

In respect of the above matters, it is considered appropriate to either condition these requirements or make it the subject of a *reserved* matter pursuant to Section 33 (3) of the Act, as this requires technical detailed and design engineering being provided regarding the blockwork retaining wall, scour protection measures, and bunding and detention/discharge weir design (refer to *Condition 1*).

The extensive use of concrete block walls has been raised as a matter of aesthetic consideration as the blockwork structures are typically not aesthetically pleasing. The response to representations proposes a 3 metres combined fence and retaining wall.

The above responses are included as ***Attachment – Referral Responses***.

5. CONSULTATION

The application was categorised as a Category 2 form of development in accordance with Section 38(2)(a) of the *Development Act (1993)* and Schedule 9 of the *Development Regulations (2008)*, requiring formal public notification.

Three (3) representations were received as a result of the public notification process, of which two (2) are in opposition and the other providing general advisory comments from the electricity network authority, SA Power Networks.

Two representations were received from adjacent residential properties.

The following representors wish to be heard:

Name of Representor	Representor's Property Address	Nominated Speaker
Dianne Barrett	20 Kenton Valley Road, Lobethal.	Indicated desire to appear in person.
Mark & Helen Elsworthy	15A Kenton Valley Road, Lobethal.	Indicated a desire to be heard in support of representation but does not wish to attend or appear in person.
SA Power Networks	25 Kenton Valley Road, Lobethal (substation) and network services crossing the subject land.	Subject to the relevant matters being taken into account by Council, the Landowner and Developer, SA Power Networks does not consider it necessary to appear, or be represented, before Council in support of this submission.

The issues contained in the representations can be briefly summarised as follows:

- Stormwater and mobilised pollutants
- Existing and increased light-spill
- Traffic movement / associated noise and pollution concerns
- Proximity to dwellings
- Privacy to adjoining land

The applicant's response to representations has addressed the following:

Privacy

The representor adjoining the subject land's southern boundary has expressed concern over the potential lack of privacy and has requested a 3m high fence located on concrete blocks along the Southern boundary of the allotment.

The applicant has proposed a combined 1.5 metre block wall with a 1.5 metre Colorbond © fence on top of this which the representor has accepted addresses her concerns. Note the retaining will be two one metre concrete blocks with the first buried 0.5 metres below ground.

Truck Movements, Noise & Pollution

Concerns have been expressed regarding the noise of the truck wash and increase in noise due to an increase in vehicle movements.

The applicant has indicated that *'the proposed truck wash will be located within a shed, despite not needing to be, and the majority of usage will be between the hours of 4pm and 7pm on weekdays. However, the applicant notes that the company requires full flexibility of truck washing times to be able to operate the business effectively'*, and that *'the noise emitted from the proposal is not considered to be significant and should not cause unreasonable interference with the adjoining and adjacent dwellings'*, citing PDC 8 of the Council Wide Provisions – Interface Between Land Uses – Noise Generating Activities. Hughes Construction has an existing engine vehicle hot wash on site with an existing agreement with SA Water regarding the trade waste produced by this. These activities are in existence with existing vehicle maintenance activities on site. The new truck wash is proposed as a preliminary clean to enable accurate observation of vehicles as part of ongoing maintenance. No noise documentation has been provided with claims the truck wash company has never been asked to produce these in the past. It is also claimed that the truck wash is usually undertaken outside a building. As the proposal is to wash approximately three trucks per day which means the truck wash would be operational for approximately fifteen minutes in any twenty four hours this is considered acceptable. Documentation has been provided which demonstrates the amount of water, cleaning solution and waste water used for each vehicle wash (refer to the attachments for more details in this regard). Should the proposal be amended at some time in the future to accommodate more trucks, noise emissions may need to be examined more closely.

In respect to the emissions from trucks, the applicant's response has indicated that 80% of the vehicles currently utilised comply with modern Euro 6 Emission Standard and the remaining 20% comply with Euro 5 Emission Standard. Additionally, the vehicles utilise retarder braking systems, not engine brakes, ensuring no engine braking noise is created in this regard.

Light spill

The site and buildings exhibit flood lighting, predominantly in the north-western quadrant of the land. The applicant's response provides that, *'proposed lighting will be designed to minimise light spill off the site. It is considered that the proposed fencing as specified above will aid in minimising light pollution into 20 Kenton Valley Road'*, citing accordance with Council Wide Industrial Development PDC 6.

Mobilised Pollutants

The applicant has advised that the existing *silt fence* installed was for sediment control as requested and discussed with the Council previously.

Following an anonymous complaint, the EPA conducted an inspection of the site and found a small film of material on a puddle which was 100 metres from the winter creek. The EPA advised that they were satisfied that no other works were required after inspecting the site and complex.

The proposed fuel pods are self-bunded and the proposed stormwater management for the site directs all overland water flows from the site into the proposed stormwater catchment and treatment area in the south west portion of the site. The proposed stormwater catchment and treatment area is oversized for the proposed works, having been designed to cater for possible future developments on the undeveloped portion of the Light Industry zoned land. The proposed truck wash facility contains water recycling and cleansing methods, with any waste water being

disposed to SA Water sewer in accordance with a trade waste agreement between the applicant and SA Water.

Traffic movements

Currently, all vehicles enter and leave the site via Brettig Road and there is no proposal for trucks to use Kenton Valley Road to access the site. Recommended Condition 9 further ensures that all movement to and from the site is in accordance with the proposal.

Proximity to dwellings

The proposed development is an extension of an existing, lawful development, located within the Light Industry Zone. The applicant's response cites the existing land use and the expansion of operations being significant to local business and economy, and provides that, *'the form of development is considered appropriate for this zoning and all necessary measures will be taken to preserve the amenity of the neighbouring properties'*. It is noted that previous approvals recorded no conditions with regards to hours of operation. The original approval for truck parking from 2013 was for 14 vehicles. There was an extension to the area in 2015 which enabled 25 vehicles to be parked on site. This proposal is for 50 vehicles and includes staff parking for 50 persons.

Given the Industrial nature of the zone and the relationship of adjacent dwellings to the proposed parking/hardstand and truck wash (120 metres from the nearest residence) and the identified conventional hours of operation, the response is considered reasonable. A condition has been recommended regarding hours of operation of the hardstand and associated truck wash (*refer to Condition 5*).

A copy of the submission is included as **Attachment – Representations** and the response is provided in **Attachment – Applicant's Response to Representations**. A copy of the plans which were provided for notification are included as **Attachment – Publically Notified Plans ONLY INCLUDE IF DIFFERENT TO FINAL PLANS**.

6. PLANNING & TECHNICAL CONSIDERATIONS

This application has been evaluated in accordance with the following matters:

i. The Site's Physical Characteristics:

The subject land is in the order of 12 hectares of which approximately 40% is utilised for the commercial activity. The eastern half particularly, which lies within the Watershed (Primary Production) Zone is retained for grazing use.

The site is expansive, yet the requirements for the operation's vehicle storage necessarily utilises a large proportion of the site given the nature of heavy vehicles, including semi-trailer and dual-trailer combinations as well as the manoeuvring / circulation areas. The site slopes from high in the north to low in the south. The slope of the land was enough to cause some work health and safety concerns for staff accessing vehicles which has resulted in the proposed filling of land to decrease the slope.

The site was impacted by the Cudlee Creek Bushfire with the main impact being on existing landscaping on the western edge of the existing hardstand area. The applicant has also worked with Council engineering and arboricultural staff to ensure that the existing access point on Brettig Road meets expected safety standards. This

involved the recent removal of a large Council Eucalypt tree which was causing sight line issues. The tree also had its health impacted by installation of Council stormwater infrastructure. Survival of the bushfire event and the access works demonstrate the existing site is generally well kept and orderly in its layout and parking arrangements.

There is limited flood mapping in the south eastern portion of the site adjacent the winter creek which flows across this portion of the land. The applicant has provided a consultant's report which indicated the proposed works will not impact the creek, but more particularly nor upstream or downstream sites.

ii. The Surrounding Area

The surrounding locality exhibits a closely interfaced arrangement of land use zones which have dissimilar planning objectives and land uses established.

The topography of land in the locality results in the proposed and existing development to be prominent within the landscape when travelling along Kenton Valley Road, rather than being concealed. In this respect, aesthetic and operational impacts are likely to be recognised well beyond the site boundaries.

The site is bounded to the north and east by primary production land. To the south the neighbouring land is dual zoned being both Township and Watershed Primary Production. To the west there are large light industry uses and some larger Township zoned residential parcels.

iii. Development Plan Policy considerations

a) *Light Industry Zone & Policy Area provisions*

The subject land lies within the Light Industry Zone and the Light Industry (Lobethal North) policy Area applies to this assessment. The zone and policy area provisions seek to enable a range of light industrial land uses which will be protected from intrusion of residential and other conflicting land uses, enhance the aesthetic characteristics of the zone and ensure the nearby areas within the Watershed (Primary Production) zone areas are protected from pollution as a priority.

The following are considered to be the relevant Policy Area provisions:

Objectives: 1, 2 & 3

Desired Character Statement: (all)

PDCs: 1, 2, 3, 5, 6 & 7

The following are considered to be the relevant Zone provisions:

Objectives: 1

PDCs: 1, 3 & 4

The relevant zone and policy area provisions illustrate the intention for the zone to support appropriate forms of industrial development without encroachment of incompatible uses. The zone and policy area PDCs 1 both indicate envisaged forms of development including light industry and service industry. The broad definitions of

industrial development in Schedule 1 of the Development Regulations 2008, provide an indication of the scale and intensity of appropriate forms of industry.

Schedule 1 (interpretation) provides that:

light industry means an industry where the process carried on, the materials and machinery used, the transport of materials, goods or commodities to and from the land on or in which (wholly or in part) the industry is conducted and the scale of the industry does not—

- (a) detrimentally affect the amenity of the locality or the amenity within the vicinity of the locality by reason of the establishment or the bulk of any building or structure, the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, spilled light, or otherwise howsoever; or
- (b) directly or indirectly, cause dangerous or congested traffic conditions in any nearby road;

And;

service industry means a light industry in which—

- (a) goods manufactured on the site (but not any other goods) are sold or offered for sale to the public from the site; or
- (b) goods (other than vehicles or vehicle parts) are serviced, repaired or restored, and the site occupied for such sale, service, repair or restoration (but not manufacture) does not exceed 200 square metres;

The proposal does not fall within the definition of *service industry* but does accord with the definition of *light industry*, being an extension of such activities already established upon the land, including accessory elements, such as storage of fuel & washing of vehicles which is allotted to the operation and is comprehensively a part of the light industry activities carried on upon the land.

In isolation, the parking of trucks and trailers (but not necessarily including storage of earthmoving machinery or any of the other existing elements of the business) with associated truck wash and fuel provisions could be defined as a road transport depot. This use is neither complying nor non-complying in the zone. However, the proposal must be assessed upon the whole of the proposal and its land use.

It is acknowledged that some of the listed impacts within the nature of light industry activities may be relevant considerations for the proposed development.

Accordance with Zone

The light industry zone seeks to become '*intensely developed*', with '*low impact*' industrial activities and seeks to achieve a '*high quality, landscaped industrial area*' aesthetic.

Currently, the site is not intensively developed. However, the proposal seeks to establish a far more complete use of the subject land for what can be described as low intensity use, associated with the parking and maintenance of the heavy vehicles associated with the existing civil and construction activities carried out by the business, both on and off the land.

The impacts associated with the activities on balance, are considered to be relatively low for the proposed hard-stand area, which will involve the infrequent movement of trucks and trailers from the southern portion of the land on commencement and conclusion (typically) of work. It is noted that more intensive movements are likely at the northern end of the property and more so associated with loading, unloading and movement of machinery and construction materials.

The associated truck washing and storage building and apparatus is also considered on balance to present low level impacts. Activities will necessarily involve the movement of trucks through the truck wash apparatus, therefore traffic movements, and some associated noise from the washing, pumps etc. will exist.

Comparable with other forms of light industry, or warehousing, these are considered low level impacts, particularly at the southern portion of the property interfacing with nearby adjoining residential land uses.

Landscaping is proposed to provide some soft visual buffering and attenuation of some noise and light spill impacts. It is considered critical to the performance of the proposal against the objectives and desired character of the zone, particularly Policy Area Objective 2, for the proposed development to achieve '*a standard which presents an attractive town approach*' and as the zone forms a part of visitors' approach to Lobethal from the north, ...'*as a gateway to the town it is important that development in this area enhances the area's amenity*'. The applicant was impacted by the Cudlee Creek Bushfire, in particular the landscaping on site. This proposal seeks to provide more extensive landscaping than that currently on site and by using locally sourced and recommended bushfire appropriate plantings.

Form of Development

As foreshadowed previously, the proposed development *in isolation*, is largely representative of a *road transport depot*, which itself is neither 'complying' nor 'non-complying.' It is therefore a merit form of development in the zone. However, associated with the existing activities carried on upon the subject land, the total development is considered to adequately satisfy the appropriate use for the zone as *light industry* activities.

Appropriateness of Proposal in Locality

Subject to inclusion of landscape screening of the site which would:

- (i) greatly improve the aesthetics of the northern approach to Lobethal, and
 - (ii) greatly enhance the interface with adjoining and adjacent residential occupants by assisting in mitigating dust, light-spill and noise impacts,
- the proposal is considered to continue the acceptable land use, which is envisaged in the zone and across the locality.

The zone provisions express that the Light industry Zone, which is a relatively constrained area, and which must provide for the total of the district's current and future industrial activities, is not to be prejudiced by residential or other incompatible uses. Accordingly, ensuring that appropriate measures are incorporated at the interface with adjoining zones and land uses, particularly residential uses which are sensitive to the aforementioned impacts, is critical. The proposed fence and retaining

wall structure on the southern boundary and the landscaping proposed on the western elevation of the area of fill are considered to address these zone provisions.

b) Council Wide provisions

The Council Wide provisions of relevance to this proposal seek to reinforce appropriate built form and design, safety of life and property from natural hazards, in this instance principally bushfire, and appropriate industrial development to contribute positively to the surrounding natural and built environment. The fine balance of these matters is critical to the achievement of the Development Plan intent.

The following are considered to be the relevant Council Wide provisions:

Design and Appearance

Objective: 1

PDCs: 1, 3 & 27

The appearance of the buildings proposed in this application are considered to be acceptable in the context of the site and zone. Buildings are set back substantially from the Kenton Valley Road frontage of the site and also incorporate muted colours and non-reflective finishes to external surfaces of the buildings.

The proposed fuel storage pods are white. It is considered appropriate that the pods are also painted in colours and finishes consistent with the proposed buildings, i.e. equivalent of Colorbond © 'pale eucalypt' in order to be consistent with the existing buildings and harmonise with the natural surrounding environment (recommended *Condition 3* regarding the painting of the fuel pods).

As foreshadowed previously, landscaping is considered necessary to provide some soft visual buffering which will contribute to more appropriate aesthetics of the site, zone and the northern approach to Lobethal, as well as attenuation of dust, noise & light spill impacts and is included on the proposed approval plans (refer to recommended *Condition 8*).

Hazards

Objectives: 1 & 5

PDCs: 1, 4 & 8

The proposal is considered to be reasonably invulnerable to bushfire risk particularly due to the surrounding landscape and sparse distribution of vegetation generally about the site.

Landscaping, which has been discussed previously for the benefit of visual amenity and appearance of the land and buildings, could present an increase in risk of bushfire. The selection of appropriate fire resistant or suppressant species has also been discussed with the applicant in respect of providing an appropriate landscape buffer without accentuating bushfire risks.

The land has a seasonal watercourse which traverses the land, coming in to close proximity with the proposed truck wash building. This watercourse is partially flood mapped. The applicant has provided a professional report which provides recommendations to ensure that the proposal will not impact on upstream and downstream properties. Some stabilisation is considered necessary (Council Engineering) to ensure that the eastern side of the proposed truck wash building and hard-stand area is protected from seasonal flood waters and inundation and scouring or undermining of the site. This information will be part of the proposed reserved matter in *Condition 1* with regards to a detailed civil design for the site.

During assessment of this proposal and review of previous applications it became apparent some previous stormwater infrastructure may not be operational. Significant infrastructure is proposed to capture and filter stormwater flows from the proposed hard-stand pad, and redirect that stormwater surcharge to the drainage line adjacent to the western boundary (Kenton Valley Road frontage) of the land. The proposed stormwater infrastructure has been designed with capacity for future development on the vacant portions of the site and has been considered by Council engineering staff as adequate.

On balance the proposal is not considered to be at risk of fire or flood / inundation hazards and is also considered to adequately address the risks emanating from or existing upon the land.

Industrial Development

Objectives: 3, 4 & 6

PDCs: 2, 3, 6 & 7

The proposed development is considered to represent an appropriate extension / expansion of the appropriate existing land uses and development on the site.

The proposal will result in impacts particularly to the southern adjoining residence and occupiers. However, the inclusion of features such as stormwater runoff control, a combined fence and retaining wall structure and landscaping, will greatly improve the interface between the light industrial land uses and the adjoining residential developments and enhance the residential occupants' amenity.

Interface between Land Uses

Objectives: 1 & 3

PDCs: 1 & 2

As discussed in detail previously in this report, the provision of a fence is necessary to improve the interface between the light industrial land uses and the adjoining and adjacent residential developments to enhance the residential occupants' amenity. Landscaping for the southern boundary was originally proposed but has been removed from the proposal due to potential ongoing management issues.

The proposal will undoubtedly result in impacts particularly to the southern adjoining residence and occupiers. However, the activities which are to occur on the land are considered to be reasonably low impact, involving infrequent traffic movements of

trucks departing and returning to the compound, at the commencement and conclusion of works, and the washing and maintenance of the vehicles. Where there are zones abutting other zones, interface issues are likely to arise. On balance the extension of the existing uses on the site to the proposed portion of the land being mainly the truck parking are considered of lower impact than light industry uses.

The impacts are not considered to be excessive or unreasonable acknowledging the intended land uses to be established within the zone and the protection that the Light Industry Zone is to be afforded in terms of avoidance of incompatible uses within the zone, and the appropriate measures required to be undertaken at the interface of zones.

Landscaping Fences and Walls

Objectives: 1 & 2

PDCs: 1 & 2

Landscaping has been addressed in detail throughout this report, relevant to assessment of the proposal against the Light Industry Zone, Policy Area and Council Wide provisions. This is also the subject of the representation made during Public Notification processes.

The representor from the adjoining land to the south of the subject land expressed concern over the potential lack of privacy and has requested a 3m high fence located on concrete blocks along the southern boundary of the allotment. The applicant has proposed a combined fence and retaining structure to a height of 3 metres which is considered to assist in ameliorating concerns for land in the residential zone to the south of the subject land.

The fence is to be attached to the vertical face of the concrete blockwork (in order to address the aesthetics of the blockwork) and extend from ground level at the base of the blockwork, and extend a maximum of 4 metres vertically (not more than 2.4 metres above the finished horizontal surface of the blockwork) at its western end. It is also stepped up the hill along the boundary with the southern neighbour to form a satisfactory privacy fence.

The western boundary, or area proximate to the boundary of the proposed hardstand, will also have a compact landscaped buffer. This buffer will comprise a variety of appropriate native species of compact trees and shrubs to attenuate the aforementioned potential nuisances emanating from the site (towards the other nearby residential land uses on the opposite side of Kenton Valley Road), and will provide a vastly improved aesthetic outlook over the site from areas of public outlook, particularly from Kenton Valley Road.

7. SUMMARY & CONCLUSION

The proposal assessed against the provisions of the Adelaide Hills Development Plan, Consolidated 8 August 2019, is considered to demonstrate adequate merit insofar that it has the potential to vastly improve upon the existing form and appearance of the subject land, and would visually contain the activities carried out upon the land.

The proposal is located within the Light Industry Zone and Policy Area which is surrounded by a rural/semi-rural environment. Buildings are of an acceptable standard of design and appearance relative to the industrial nature of the development and is not considered to be aesthetically overwhelming within the locality.

The proposed development neither establishes any unreasonable risk or susceptibility to bushfire and will not propagate or perpetuate any additional risk to the environment, including watercourses and stormwater drainage.

The proposal is sufficiently consistent with the relevant provisions of the Development Plan, and it is considered the proposal is not seriously at variance with the Development Plan. In the view of staff, the proposal has sufficient merit to warrant consent. Staff therefore recommend that Development Plan Consent be **GRANTED**, subject to conditions.

8. RECOMMENDATION

That the Council Assessment Panel considers that the proposal is not seriously at variance with the relevant provisions of the Adelaide Hills Council Development Plan, and GRANTS Development Plan Consent to Development Application 19/532/473 by GE Hughes Construction Co for Change of use to include a transport depot and extend an existing vehicle hardstand, retaining walls, 2 x 28000 litre fuel storage pods, storage building, outbuilding for truck wash equipment, 2 x 20000 litre water tanks & associated earthworks at 4 Brettig Road Lobethal subject to the following conditions:

(1) Reserved Matter

The applicant shall prepare a technical detail and design engineering plan regarding the blockwork retaining wall, scour protection measures, bunding and the proposed detention / discharge weir design for approval by Council engineering staff.

The works contained in the approved detailed engineering design shall be implemented prior to occupation of the hardstand area and construction commencing for the proposed truck wash vehicle.

(2) Development In Accordance With The Plans

The development herein approved shall be undertaken in accordance with the following plans, details and written submissions accompanying the application, unless varied by a separate condition:

- **Designing Places Architects / Hughes Construction Co plans, PA01 as amended 30 April 2021, PA01A as amended 19 April 2021, PA02 as amended 20 May 2021, PA02B as amended 30 April 2021, PA03 – 04 as amended 30 April 2021, PA05 - PA06 as amended 19 April 2021.**
- **DBN Consulting Engineers Stormwater management plan dated 30 April 2021 revision 3
D, Figure 01 A dated 13 August 2019, Figure 02 A dated 26 July 2020, Figure 03 E dated 26 August 2020, Appendices B and C dated 17 July 2020**
- **A-FLO Equipment Sheets 1 and 2 Rev 01 and Sheet 1 Rev 0.1 date stamped by Council 27 November 2019**

- (3) **External Materials and Finishes**
All external materials and finishes for the new buildings and fuel pods herein approved shall be of consistent colour and finish, i.e. Colorbond © 'pale eucalypt'.
- (4) **Soil Erosion Control**
Prior to construction of the approved development straw bales (or other soil erosion control methods as approved by Council) shall be placed and secured below areas of excavation and fill to prevent soil moving off the site during periods of rainfall.
- (5) **Requirement For Retaining Wall To Be Constructed Prior To Works Commencing**
The combined fence and retaining wall on the southern and south-eastern side of property, as described on the site plan stamped as part of this authorisation, shall be constructed prior to the commencement of the construction of the truck wash building and hard-stand area and retaining walls over one (1) metre in height will require Building Consent
- (6) **Hours of Operation**
The operating hours of the truck hardstand and wash shall be from 8.00am to 6.00pm seven days a week.
- (7) **Number of Trucks**
The approval is for the parking of a total of fifty (50) heavy vehicles. No reference is made to the number of trailers that may be parked within the truck parking area.
- (8) **Light spill**
All external lighting on the subject land shall be designed and constructed to conform to Australian Standard AS/NZS 4282-1997, and shall be directed away from adjacent residential properties to prevent light spill nuisance.
- (9) **Timeframe for Landscaping To Be Planted**
Landscaping shown on the plans form part of the application and shall be established prior to the operation of the development and shall be maintained and nurtured at all times with any diseased or dying plants being replaced as soon as practicable. At the time of planting, a minimum of 20% these trees shall be semi-mature with a minimum height of 2 metres.
- (10) **Site Entry**
Entry and Exit to the site shall be via Brettig Road only.

NOTES

- (1) **Development Plan Consent Expiry**
This application has been granted for Development Plan Consent only. The application for Building Consent is required to be lodged via the Development Application Processing System at PlanSA. Building Consent is required to be issued prior to the expiry date of the Development Plan Consent. Alternatively an application for extension of time must be sought from Adelaide Hills Council prior to the expiry date, including payment of the relevant fee.

Further details in relation to the Planning Reforms can be found https://www.saplanningportal.sa.gov.au/planning_reforms

(2) EPA Environmental Duty

The applicant is reminded of his/her general environmental duty, as required by Section 25 of the Environment Protection Act 1993, to take all reasonable and practical measures to ensure that the activities on the whole site, including during construction, do not pollute the environment in a way which causes, or may cause, environmental harm.

(3) Works On Boundary

The development herein approved involves work on the boundary. The onus of ensuring development is in the approved position and on the correct allotment is the responsibility of the land owner/applicant. This may necessitate a survey being carried out by a licensed land surveyor prior to the construction works commencing.

(4) Responsibility In Relation To Flooding

The applicant is reminded that Adelaide Hills Council accepts no responsibility for damage to, or loss of property, as a result of flooding. It is the applicant's responsibility to ensure that all appropriate steps are undertaken to minimise the potential damage to property as a result of flooding.

9. ATTACHMENTS

Locality Plan
Proposal Plans
Application Information
Applicant's Professional Reports
Referral Responses
Representation
Applicant's response to representations
Publically Notified Plans

Respectfully submitted

Concurrence

Melanie Scott
Senior Statutory Planner

Deryn Atkinson
Assessment Manager

COUNCIL ASSESSMENT PANEL MEETING

9 June 2021

AGENDA – 8.3

Applicant: Joyson Orchards Pty Ltd	Landowner: W J Joyce Nominees Pty Ltd
Agent: Beyond Ink	Originating Officer: Melanie Scott
Development Application:	20/1273/473
Application Description: Staged Consent Construction of light industry (agricultural industry) building & associated two storey offices, carparking, retaining walls (maximum height 3.5m), acoustic fence (maximum height 2.8m), signage, associated access work, landscaping & associated earthworks. Stage 1 earthworks, Stage 2 balance of the works	
Subject Land: Lot:3 Sec: P5047 DP:22713 CT:5440/920 Subject Land: Lot:2 Sec: P5047 DP:22713 CT:5440/810 Subject Land: Lot:21 Sec: P5047 DP:50774 CT:5643/977	General Location: 202 – 204 Onkaparinga Valley Road Woodside General Location: Naughtons Road Woodside Attachment – Locality Plan
Development Plan Consolidated : 8 August 2019 Maps AdHi/18 & 57	Zone/Policy Area: Light Industry Zone - Light Industry (Woodside) Policy Area 72
Form of Development: Merit	Site Area: 3888.60 m ²
Public Notice Category: Category 2 Merit - DPC requested & Private Cert BRC	Representations Received: Nil Representations to be Heard: Nil

1. EXECUTIVE SUMMARY

The proposal seeks to obtain Development Plan Consent for the establishment of light industry comprising a fruit processing building, containing apparatus for receiving, grading, washing, packing, storage and ultimately transportation of produce; associated office and worker facilities, and internal cool rooms, with office staff & worker car parking, retaining walls (on the boundaries) and internal drainage and wastewater infrastructure connected to Council's Common Waste Management Scheme (CWMS).

The subject land is located within the Light Industry Zone - Light Industry (Woodside) Policy Area 72 and the proposal is a Category 2, merit form of development. There were no representations received as a result of Public Notification processes for this proposal.

As per the CAP delegations, the CAP is the relevant authority for commercial and industrial developments where the value of the work is over \$2.5 million. The proposed value of this project is \$4 million.

The main assessment matters relating to the proposal include the scale of the development and interface with nearby and adjoining residential land uses (three such uses exist within the Light Industry Zone), heavy vehicle movements onto Onkaparinga Valley Road and from Naughtons Road, and interface with the Amy Gillet bikeway and stormwater drainage from the site and buildings.

In consideration of all the information presented, and following an assessment against the relevant zone and Council Wide provisions within the Development Plan, staff are recommending that the proposal be **GRANTED** Development Plan Consent, subject to conditions

2. DESCRIPTION OF THE PROPOSAL

The proposal is for the following:

- Multi-facet processing building containing apparatus for receiving, grading, washing, packing, storage and ultimately transportation of produce
- Office and office staff/worker facilities
- Sealed car parking and heavy vehicle access, manoeuvring and loading bays
- Retaining walls upon boundaries, earthworks and acoustic fence
- Landscaping
- Internal drainage and wastewater infrastructure.

The proposed development generally results in a building of a maximum of two storeys and 11.0 metres maximum height above natural ground level, with a dimension of 99.50 metres in length x 61.80 metres in width (overall dimensions), forming a reversed 'L' shape when viewed from Onkaparinga Valley Road.

The proposed building is setback 31 metres (at its closest point) from the Onkaparinga Valley Road primary road frontage and 20 metres from the Naughtons Road secondary road frontage with setbacks of 3.0 metres to the southern side property boundary and 2.0 metres to the eastern side (rear) property boundary.

The proposed building is setback 12 metres to the southern side and 20 metres from the eastern side property boundaries of the adjoining property at 10 Naughtons Road, at the intersection of Onkaparinga Valley and Naughtons Roads on the north-western side of the proposed development (refer to the *Site Plan* for details).

The proposed building is to be finished in a composite of external materials and finishes. These include maxline (vertical expressed ridge, metal sheeting) in 'kalkajaka' (deep slate grey tone) for the forward prominent section comprising the office and worker facilities and load out dock areas, 'tilt-up' precast concrete wall sections with an 'off form' finish (natural concrete grey) generally for the peripheral walls, and Colorbond © 'surfmist' (off-white) metal roof sheeting.

The customer interface/office at the front of the building facing Onkaparinga Valley Road also features substantial glazing and an anodized 'bronze', vertical blade awning.

The proposal incorporates retaining walls, to the southern, eastern and a short section of the northern boundaries to a maximum height of 2.9 metres and the incorporation of a chain link mesh compound fencing generally, with post and rail sheet metal fencing and landscaping to the adjoining residential allotment boundaries.

The balance of the site's open areas are to be sealed surface car parking and manoeuvring areas, including truck un-loading area and two dedicated truck loading docks for exporting produce. The site will operate a one way vehicle access for trucks with the entry being from Naughtons Road and the exit being to Onkaparinga Valley Road. To achieve Australian Standards for heavy vehicle access to Onkaparinga Valley Road, modifications to the existing slip lane are proposed at the applicant's cost as part of this application.

The site also contains a river red gum tree (*Eucalyptus camaldulensis*) within the site and three outside the site within the Council administered Road reserve. Two of the trees within the road reserve are classed as regulated trees. The two smaller ‘non-regulated’ trees are recommended for removal and the two larger regulated trees recommended to be retained and protected.

Consolidation of the three titles is proposed as part of the proposal to assist in meeting the requirements of the Building Code of Australia. This will also include the extinguishment of an easement to Council for drainage purposes which has no infrastructure within it, and with the construction of this proposal will have no purpose.

The proposed plans are included as **Attachment – Proposal Plans** with other information included as **Attachment – Application Information** and **Attachment – Applicant’s Professional Reports**.

3. BACKGROUND AND HISTORY

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
4 August 1998	98/D42/473	Land division

4. REFERRAL RESPONSES

The application was subject to a mandatory referral to the Department of Infrastructure & Transport (DIT) Transport Planning Services pursuant to Section 37 of the Act and Schedule 8 of the *Development Regulations 2008*, as the proposed development abuts a secondary arterial road (DIT State Controlled) confirmed in Map AdHi/1, and proposes a change to the nature and intensity of traffic movements relative to the land and the development.

- **DIT Transport Planning**
DIT have raised no objections to the proposal, acknowledging the proposed access/egress and turning proposals are to be undertaken by the applicant, referenced in Beyond Ink site plan and design drawings within the MFY Traffic Consultant Report. All costs of this work to be borne by the applicant and subject to conditions of consent.

The above response is included as **Attachment – Referral Responses**.

- **AHC Engineering**
The proposal has been referred to Council’s Engineering Department in respect of the proposed stormwater management and Council’s easement within the subject land (which contains no infrastructure and is to be extinguished), and existing stormwater infrastructure which exists immediately to the south of the proposal within adjoining Allotment 7 DP22714.

The property is connected to CWMS infrastructure within the Onkaparinga Valley Road Reserve nearby the south-western corner of the allotment.

5. CONSULTATION

The application was categorised as a Category 2 form of development in accordance with Section 38(2)(a) of the *Development Act (1993)* and Schedule 9 Part 2 (19) of the *Development Regulations (2008)*, with no representations received.

6. PLANNING & TECHNICAL CONSIDERATIONS

This application has been evaluated in accordance with the following matters:

i. The Site's Physical Characteristics

The collective area of the subject land (allotments 2 & 3 DP22713 and allotment 21 DP50774, is 7591m² representing approximately two to three times the typical land area of other industrial sites within the Woodside Light industry Zone.

The land is considered to be 'relatively flat', with a rise in elevation of approximately 3 metres at its rear (south-eastern) boundary, equating to approximately 1:50 grade.

The land is generally clear of vegetation with the exception of four river red gum trees situated at the Onkaparinga Valley Road Frontage with one in the site and the other three gum trees outside the site boundaries, within the Council road reserve. Two of the four are regulated trees and the arborist's report suggests that these will not be impacted on by the proposal. The two smaller river red gums are not protected by Development legislation and the Native Vegetation Branch of the Department for Environment, Heritage and Sustainability has confirmed that they can be removed in accordance with their guidelines for Management of Roadside Native Vegetation and Regrowth (Refer to **Attachment DEW Comment**)

The land contains a swale drain and there is an easement to Council in this location for drainage purposes alongside the shared boundary of Allotment 2 and Allotment 21. There is also an excavated vehicular entrance compensating for a change in the levels at the northern boundary of Allotment 21 and Naughtons Road. Council engineering have confirmed that there is no infrastructure in the easement and they are happy to have the easement extinguished. There is a condition regarding a new crossover from Naughtons Road which will ensure it is suitable for trucks.

ii. The Surrounding Area

The surrounding locality is largely industrial and is at the northern extremity of the industrial zone on the northern side of the Woodside township. The land further north across Naughtons Road and on the western side of Onkaparinga Valley Road is within the Watershed (Primary Production) Zone.

The zone abuts the Township zone to the south and this creates a clear delineation of zones, where land uses transition directly from industrial/commercial use to residential land uses.

The subject land has a direct interface with two residential sites, one of which lies within the Light Industry Zone at the corner of Onkaparinga Valley Road and Naughtons Road. The other is adjacent to the north, within the Watershed (Primary Production) Zone on the opposite side of Naughtons Road.

The frontage of the site to Onkaparinga Valley Road reserve is flared to a broad width at the intersection of Onkaparinga Valley Road and Naughtons Road, and contains part of the Amy Gillett bikeway and a Lions Club picnic setting. The road itself is a DIT Controlled secondary arterial road.

iii. Development Plan Policy considerations

a) *Policy Area/Zone Provisions*

The subject land lies within the Light Industry Zone - Light Industry (Woodside) Policy Area (72) and these provisions seek:

- to become intensively developed with a wide range of low-impact industrial activities,
- to reflect a vigorous local economy and developments with a form that enhances the overall views and rural character,
- to present a high quality, aesthetically pleasing landscaped industrial area with generous set-backs and substantial and effective vegetated buffers to reduce the visual and environmental impact of the development,
- The zone will be protected from the intrusion of residential and other inappropriate uses to avoid land use conflicts. High impact industrial uses will not be located within the zone,
- To develop appropriate scale of buildings exhibiting well-articulated form, using smaller building modules, variation in the facades, roof form and colour and enhance the nature of the area, and
- Will recognise the importance of the Mount Lofty Ranges Watershed Area with an emphasis on prevention of pollution.

The following are considered to be the relevant Policy Area provisions:

<i>Objectives:</i>	<i>1, 2, 3</i>
<i>Desired Character Statement:</i>	<i>Paragraphs 1, 2 & 3</i>
<i>PDCs:</i>	<i>1, 2, 3, 4</i>

The following are considered to be the relevant Zone provisions:

<i>Objectives:</i>	<i>1, 2</i>
<i>Desired Character Statement:</i>	<i>Paragraphs 1, 2, 3 & 4</i>
<i>PDCs:</i>	<i>1, 3, 4</i>

This proposal represents a high standard of light industrial development, which is substantial in scale, several times the scale of surrounding industrial developments. The proposal is relevantly linked to rural industry within the district and on the basis of its linkages to primary production and its scale, is considered to reflect vigour of the local economy as described within the Desired Character Statement.

The building utilises a composite of building elements and materials which far surpass the 'typical appearance' of industrial buildings, presenting a contemporary design and styling which will enhance the visual appearance of the northern entry into

Woodside. The scale of the development, exceeding the scale of existing buildings in the locality is not considered prejudicial to the zone.

The design layout, access through the site, car parking and heavy vehicle manoeuvring and docking (loading bays) creates large setbacks, particularly to Onkaparinga Valley Road, which is in excess of 31 metres from the front boundary at its nearest point, which surpasses the requirements of Zone PDC 4. The setback from Naughtons Road is slightly reduced at approximately 7 metres.

Existing trees retained at the Onkaparinga Valley Road frontage and new landscaping at the Naughtons Road frontage will also enhance the appearance of the land, buildings and activities occurring within the site.

Accordance with Zone

Development for the purpose of processing, packing, storage, transport and associated offices and workers facilities is considered to be appropriate within the Light Industry Zone.

The scale of the building is substantial, however, its built form, articulation and setbacks accord or exceed the minimum requirements of the zone in many respects. The building is not considered likely to overwhelm the zone or its visual characteristics.

The proposed development and the activities associated are not prejudicial to any other development on land within adjacent zones. In particular, it does not threaten the attainment of the Development Plan Objectives in respect of protecting the Watershed (Primary Production) Zone from undesirable impact upon water resources or pollution.

Form of Development

The zone and policy area PDC 1 both indicate envisaged forms of development including *light industry* as appropriate.

Schedule 1 of the Regulations provides detail of the nature, scale and intensity activities within the definition of 'light industry'. The Schedule 1 (interpretation) provides that:

light industry - means an industry where the process carried on, the materials and machinery used, the transport of materials, goods or commodities to and from the land on or in which (wholly or in part) the industry is conducted and the scale of the industry does not—

(a) detrimtally affect the amenity of the locality or the amenity within the vicinity of the locality by reason of the establishment or the bulk of any building or structure, the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, spilled light, or otherwise howsoever; or

(b) directly or indirectly, cause dangerous or congested traffic conditions in any nearby road;

The form of development being a composite of processing, packing, associated storage (incoming and outgoing cool room storage) and associated office and workers

facilities are all considered to be substantially representative of 'light industry' which is identified as being appropriate within the zone and is unlikely to create unreasonable impact in respect of those highlighted issues.

Desired Character (Woodside Policy Area)

The Desired Character Statement for the *Light Industry (Woodside) Policy Area* provides that the Light Industry Zone forms part of the approach to Woodside from the north, being a highly visible element of the 'gateway' to the town. In this respect, the proposed development contributes a substantially modern industrial building, featuring aesthetics which surpass the 'standard appearance' of light industry and commercial 'shed shop fronts'.

The location of the development, practically, at the intersection of Onkaparinga Valley Road and Naughtons Road is afforded some excellent existing native vegetation forming part of the pleasant rural landscape along Onkaparinga Valley Road transitioning into the northern outskirts of Woodside. Large eucalypts and the widened road reserve minimise the visual impact of the Light Industry Zone and the commercial nature of the entrance into the town.

Heavy vehicle access to the site will be via Naughtons Road, which will minimise the impact of traffic movements on Onkaparinga Valley Road, and traffic movements back onto Onkaparinga Valley Road have been assessed and approved by DPTI (now DIT) to ensure that vehicle manoeuvring onto the road network is satisfactorily in accordance with relevant Australian Standards.

b) Council Wide provisions

The Council Wide provisions of relevance to this proposal seek to reinforce appropriate built form and design, safety of life and property from natural hazards, and for appropriate forms of industrial development to contribute positively to the surrounding natural and built environment. The fine balance of these matters is critical to the achievement of the Development Plan intent.

The following are considered to be the relevant Council Wide provisions:

Design and Appearance

Objective: 1

PDCs: 1, 3, 11, 12 & 27

The appearance of the proposed buildings in this application are considered to be acceptable in the context of the site and zone. The buildings will be set back substantially from the Onkaparinga Valley Road frontage exceeding the standards specified within the Zone Policy Area. The proposed building provides modern architectural styling, and incorporates appropriate muted colours & non-reflective finishes to external surfaces of the buildings.

As mentioned previously, landscaping comprising the retention of substantial eucalypts at the Onkaparinga Valley Road frontage and the incorporation of new landscaping at the Naughtons Road frontage will enhance the appearance of the development.

The site and proposed development *would* be visually prominent if not for the existing vegetation nearby the site frontage and also the substantial setbacks proposed.

In respect of scenic amenity, the subject land, within the Light Industry Zone, is not within the Scenic Route described in PDC 11, the *Onkaparinga Valley Scenic Route* on Figure AdHi(EC)/1 with the scenic route shown as commencing immediately north of the zone.

It is considered that the proposed development will be well concealed from clear and direct view and will not visually overwhelm the entrance into the township.

Hazards

Objectives: 1 & 5

PDCs: 1 & 8

The proposed development and the surrounding zone is situated within a 'Medium' Bushfire Risk Zone as shown in Bushfire Protection Area Map AdHi(BPA)/5.

The development is considered to be reasonably invulnerable to bushfire risk particularly due to the surrounding landscape and sparse distribution of vegetation generally about the site, notwithstanding continuous lines of vegetation to the west (along the opposite side of Onkaparinga Valley Road) and to the north (on the opposite side of Naughtons Road) could potentially increase this risk.

Landscaping, which has been discussed elsewhere for the benefit of visual amenity and appearance of the land and buildings and is unlikely to present an increase in risk for bushfire, due to the majority of the site being developed, or surfaced which should adequately mitigate the bushfire risk.

The Onkaparinga River traverses land on the opposite (western) side of the Onkaparinga Valley Road and receives stormwater run-off from adjacent land in high rainfall events. However, the river is unlikely to create any risk to the development being well outside of its floodplain, and noting that the majority of the building's floor area is raised to facilitate operating at an appropriate level for unloading and loading of trucks.

The proposal is therefore not considered to be at risk of fire or flooding/inundation hazards and is also considered unlikely to create any risk of pollution to the watercourse.

Industrial Development

Objectives: 3, 4 5, & 6

PDCs: 2, 3, 4, 5, 6, 7 & 8

The proposed development is considered to represent an appropriate development within the Zone and Policy Area in respect of according appropriate levels of aesthetic/visual appearance, which is consistent with Objective 6 and PDC's 4, 5, 7 &

8 and accordingly appropriate levels of landscaping proposed and existing within the road reserve, and the proposed setbacks of the building will provide a soft landscaped, and spacious streetscape.

The proposal is in close proximity to the adjoining residence to the north at the corner of Onkaparinga Valley Road and Naughtons Road, which interfaces with two boundaries of the subject site. The proposed development affords as much spatial separation as reasonably practical from the residence's property boundaries to the proposed building, utilising the areas adjacent to those boundaries for thoroughfare and heavy vehicle movements.

The separation created by the layout of the site creates comparable setback and separation to that shown in PDC 2. This arrangement, although likely to have some noise and vibration impact upon the residence is considered to be appropriate. The application has been subject to Category 2 Public Notification and has not received any representations from the adjoining or nearby adjacent owners or occupiers of residential premises. The proponent has provided a copy of an agreement (Refer *Attachment – Neighbour Comment*) reached with the occupier of 10 Naughtons Road with regard to fencing, noise and landscaping. Those relevant to the planning considerations are included as recommended conditions of consent (refer to *conditions 9 & 10*).

The proposed development is considered to be compatible with the other established developments within the Light Industry Zone, with no representations from any other business owner or occupier.

Interface Between Land Uses

Objectives: 1 & 3

PDCs: 1 & 2

Specifically noting that the zone and Policy Area provide for dedicated low intensity industrial uses without prejudice from other incompatible uses within the zone, the interface between the adjoining residence and the proposed development is considered to be somewhat of a moot point in the assessment.

As discussed above, with respect to setback for industrial development at the zone boundary, the setback and spatial separation of the proposed building from the adjoining residence's boundaries is considered to be appropriate.

The proposal includes new post & rail fencing and associated retaining to a height of 2.8 metres. This indicatively provides for landscaping between the boundary and internal driveway/manoeuvring areas to assist in mitigating impacts.

The nature of the land use is considered to of a relatively low-impact nature, with the movement of trucks delivering produce to the site and exporting from the site presenting the main interface. Noise impacts are limited to plant and refrigeration noise emissions from the building, workers vehicle movements and internal works within the building.

The building's design and construction provides for 'tilt-up' concrete construction which is intended to mitigate sound transmission from within the building to the outside surrounding environment.

The impacts are not considered to be excessive or unreasonable acknowledging the intended land uses to be established within the zone and the protection that the Light Industry Zone is to be afforded in terms of avoidance of conflict with incompatible uses within the zone.

The land use is not expected to produce any undesirable conditions by way of process or materials used or by-product/waste created. The processes employed involve washing of produce, with generally mineral/organic material (soil, dirt and the like) captured with small volumes of the wastewater to be discharged and the majority of the volume of washing water to be recycled. There will be no waste materials disposed of on the site.

Landscaping Fences and Walls

Objectives: 1 & 2

PDCs: 1 & 2

The proposal provides for extensive fencing and retaining around the periphery of the site. The retaining walls are to be comprised of concrete sleepers to a maximum of 2.9 metres (south-eastern corner of the land), to 2.5 metres (north-eastern corner of the site) and at much lower levels (<1 metre) to the adjoining residence's boundaries.

Fences being established between existing light industry development is to be constructed of 1.8 metres chain link mesh atop the sections of concrete sleeper retaining walls.

Fences abutting the residential land to the north of the site (Residential allotment's south and east boundaries) are to be fenced with post and rail type sheet metal fencing and landscaped with appropriate species between manoeuvring areas, car parking and the boundary.

The treatment of boundary walls, fences and landscaping is considered to be of a reasonable standard within the Light Industry zone, appropriate for such uses and consistent with other existing fencing in the zone. The proposal has sought to create a satisfactory outcome for the adjoining residence boundaries, which will be improved and complemented with landscaping for noise attenuation.

The interface with the residential land and its fence treatment will not be readily apparent again due in large part to the existing roadside vegetation at, and nearby the intersection of Onkaparinga Valley Road and Naughtons Road and the relative concealment of that land from clear and direct view.

The subject land is also occupied by one river red gum tree (*Eucalyptus camaldulensis*) within the site with three 'council street trees' outside of the site within the Council administered Road reserve. Two of the trees in the road reserve are regulated trees.

As discussed previously the two regulated trees are not impacted by the development and the two smaller trees have Native Vegetation approval for removal.

The applicant's arboriculture report indicates that the two smaller 'non-regulated' trees are recommended for removal with the two larger *regulated trees* recommended to be retained and protected.

The regulated trees particularly play an important part in the landscape value of the locality and will also contribute substantially to the concealment of the proposed development from clear and direct view from Onkaparinga Valley Road.

The balance of the site's open areas are to be compacted gravel car parking and sealed truck manoeuvring areas, including truck un-loading area and two dedicated truck loading docks for exporting produce. The area generally surrounding the large river red gums is proposed to be left largely unsealed and landscaped. The trees' root protection zone requirements should be observed to ensure that the trees' health and longevity.

Other Matters – Stormwater

The site is changing from unsealed to largely sealed. The site is largely below Naughtons Road level and the swale drainage on Naughtons Road is at capacity. Therefore all stormwater from the site, roof and surface, is to be directed to Onkaparinga Valley Road and existing drainage in that area. Prior to discharge from the site bio-retention swales will treat the water. MUSIC modelling was provided to support this approach. Council engineering is supportive of the design presented in the amended documents presented to Council on 5 May 2021. Conditions 17 & 18 refer to engineering requirements for works to the site and the requirement for a separate Section 221 approval for works in the road reserve.

7. SUMMARY & CONCLUSION

The proposal has been assessed against the relevant provisions of the Adelaide Hills Development Plan, Consolidated 8 August 2019, and is considered to demonstrate adequate merit insofar that it has the potential to considerably improve upon and positively influence the existing built form and appearance industrial activity within the zone.

The proposal represents development of the Zone and Policy Area consistent with the desired character, to support and reflect *a vigorous local economy* and to encourage developments with built form that *enhances the overall views and rural character* of the zone and the locality generally.

The proposal fits well within the existing industrial and commercial activities in the zone and despite its scale, will contribute to an aesthetically pleasing transition from the surrounding rural environment to the Light Industry Zone, and on to the Township areas of Woodside.

The proposed building, site works and landscaping are of a high standard of design and appearance relative to the industrial nature of the development, and is not considered to be aesthetically overwhelming within the locality.

The proposed development is not subject to unreasonable risk or susceptibility to bushfire and will not propagate or perpetuate any risk to natural resources or the environment, including the Onkaparinga River in the adjacent Watershed (Primary Production) Zone.

The proposal is sufficiently consistent with the relevant provisions of the Development Plan, and it is considered the proposal is not seriously at variance with the Development Plan. In the view of staff, the proposal has sufficient merit to warrant consent. Staff therefore recommend that Development Plan Consent be **GRANTED**, subject to conditions.

8. RECOMMENDATION

That the Council Assessment Panel considers that the proposal is not seriously at variance with the relevant provisions of the Adelaide Hills Council Development Plan, and GRANTS Development Plan Consent to Development Application 20/1273/473 by Joyson Orchards Pty Ltd for Staged Consent Construction of light industry (agricultural industry) building & associated two storey offices, carparking, retaining walls (maximum height 3.5m), acoustic fence (maximum height 2.8m), signage, associated access work, landscaping & associated earthworks. Stage 1 earthworks, Stage 2 balance of the works at 202 and 204 Onkaparinga Valley Road and Lot 21 Naughtons Road Woodside subject to the following conditions:

(1) Development In Accordance With the Plans

The development herein approved shall be undertaken in accordance with the following plans, details and written submissions accompanying the application, unless varied by a separate condition:

- Plans from Beyond Ink drawing number PD000 Cover sheet and site plan text, 001 Site plan, 002 External Elevations, 101 Floor Plans, 102 Floor plans office, 103 Equipment Plan Revision A and PP101 Front Façade Carpark, 102 Naughtons Entry and 103 Front elevation all dated 25 November 2020
- Report from The Adelaide Tree Surgery dated 25 November 2020
- Traffic Engineering report from MFY Consultants dated 25 November 2020
- Stormwater Management Report from MLEI Consulting Engineers reference A2020-10798_A dated 18 February 2021
- Siteworks and Stormwater Management Plan drawing number A2020-10798 Sheets C00 Revision C dated 18 February 2021, C01 Revision D dated 9 February 2021, C1 Revision E dated 2 March 2021

(2) Soil Erosion, Drainage and Construction Management Plan – Prior to Stage 1 works

Prior to commence stage 1 works, the applicant shall prepare, submit and have approved a Soil Erosion, Drainage and Construction Management Plan (SEDCMP) for the site. The SEDCMP shall comprise a site plan and design sketches that detail erosion control methods, installation of sediment collection devices and detail vehicle access arrangements that will prevent:

- a) Soil moving off the site during periods of rainfall;
- b) Erosion;
- c) Soil moving into watercourses during periods of rainfall; and
- d) Soil transfer onto roadways by vehicles and machinery.

The works contained in the approved SEDCMP shall be implemented prior to construction commencing and maintained to the reasonable satisfaction of Council during the construction period.

- (3) **Requirement for Retaining Walls to Be Constructed Prior To Works Commencing**
The retaining walls on the southern and south-eastern side of property, as described on the site plan stamped as part of this authorisation, shall be constructed prior to the commencement of the construction of the proposed facility and retaining walls over one (1) metre in height will require Building Consent.
- (4) **Protection of Trees**
The works in relation to the tree(s), outlined in the Arborist's Report prepared by The Adelaide Tree Surgery and submitted as part of this application as a strategy for management of the tree(s) are to be undertaken simultaneously with any building works on the site.
- (5) **Commercial Lighting**
Flood lighting shall be restricted to that necessary for security purposes only and shall be directed and shielded in such a manner as to not cause nuisance to adjacent properties.
- (6) **Forklift Noise**
Any forklift noise arising during the loading and unloading of goods at the loading bays shall comply with the SA EPA Noise Policy at the residence at 10 Naughtons Road Woodside.
- (7) **Hours Of Operation – Truck Movements**
Monday to Friday 7.00am – 6.00pm
Saturday 7.30am – 3.30pm

Staff Parking - Vehicle Movements
Monday to Friday 6.30am – 6.00pm
- (8) **Truck Noise**
Trucks when stationery on the site must have their engines and refrigeration units turned off.
- (9) **Landscaping Timeframe For Landscaping To Be Planted**
Landscaping as detailed in the plan from Beyond Ink PD001 shall be planted in the planting season following occupation and maintained in good health and condition at all times. Any such vegetation shall be replaced in the next planting season if and when it dies or becomes seriously diseased.
- (10) **Stormwater infrastructure**
Stormwater infrastructure shall be installed within one month of roof sheeting being installed on the proposed building.
- (11) **One Way Truck Movements and Sealing of Truck Manoeuvring**
Trucks shall only move through the site in a one way direction with entry from Naughtons Road and exit via Onkaparinga Valley Road. Truck Manoeuvring Areas shall be sealed and directional signage to facilitate truck movement shall be installed prior to operation of the facility.

- (12) **Gravel carparking Designed In Accordance With Australian Standard AS 2890.1:2004.**
All car parking spaces, driveways and manoeuvring areas shall be designed, constructed, and line-marked in accordance with Australian Standard AS 2890.1:2004. Line marking and directional arrows shall be clearly visible and maintained in good condition at all times. Driveways, vehicle manoeuvring and parking areas shall be constructed of compacted gravel prior to occupation and maintained in good condition at all times to the reasonable satisfaction of the Council.
- (13) **Landscaping Protection In Carparks**
All landscaped areas and structures adjacent to driveways and parking areas shall be separated by a wheel stop device prior to the occupation of the development. Such devices shall not impede the free movement of people with disabilities.
- (14) **Unloading And Storage Of Materials And Goods**
All materials and goods shall at all times be loaded and unloaded within the confines of the subject land. Materials and goods shall not be stored on the land in areas delineated for use as car parking.
- (15) **Requirement For Gates Or Doors To Be Within Boundary**
Gates or doors shall not open beyond the boundary of the subject property.
- (16) **Car Parking Stormwater Runoff – Commercial**
All surface water from car parking or hardstand areas shall be directed to a proprietary pollutant treatment device capable of removing oils, silts, greases, and gross pollutants to Council and EPA satisfaction prior to discharge to Council stormwater system or street water table.
- (17) **Prior to Building Consent**
The applicant shall consolidate the titles and extinguish the easement in favour of Council for drainage purposes.
- (18) **Prior to Building Rules**
A separate application (Section 221 of the Local Government Act) with detailed design of the proposed works to Onkaparinga Valley Road and the access point on Naughtons Road is required to be lodged and approved.
- (19) **DIT conditions**
1. The access points to Onkaparinga Valley Road service road and Naughtons Road shall be constructed as shown on Beyond Ink, Site Plan, Sheet No. PD001, Revision A dated 24 November 2020.
 2. The Onkaparinga Valley Road service road shall be modified to accommodate the swept path of a 19 metre Articulated Vehicle in order to permit a suitably angled approach to Onkaparinga Valley Road. The modifications shall be generally consistent with MFY Figure 5 with all costs borne by the applicant.

3. Large commercial vehicles accessing the site shall be restricted to right turn entry only movements to Naughtons Road and left turn exit only movements into the service road and Onkaparinga Valley Road. The movements and traffic flow through the site shall be reinforced with suitable signage and line marking as well as the traffic management plan initiated by the applicant/operator.
4. All vehicles shall enter and exit the site in a forward direction.
5. Any infrastructure within the road reserve that is demolished, altered, removed or damaged during the construction of the project shall be reinstated to the satisfaction of the relevant asset owner, with all costs being borne by the applicant.
6. The car park design shall be designed in accordance with *AS/NZS 2890.1:2004* and *AS/NZS 2890.6:2009*. Additionally, clear sightlines, as shown in Figure 3.3 'Minimum Sight Lines for Pedestrian Safety' in *AS/NZS 2890.1:2004*, should be provided at the property line to ensure adequate visibility between vehicles leaving the site and pedestrians on the adjacent footpath.
7. Commercial vehicle facilities shall be designed in accordance with *AS2890.2:2018*.
8. Any stormwater run-off shall be collected on-site and disposed of safely without jeopardising the safety of the adjacent roads. Any alterations to the existing road drainage infrastructure as a result of this development shall be at the expense of the applicant.

NOTES

(1) Development Plan Consent Expiry

This Development Application is valid for a period of twenty four (24) months commencing from the date of the decision.

Building Consent must be applied for prior to the expiry of the DPC and lodged through the PLANSA portal unless a private certifier was engaged prior to 19 March 2021.

(2) EPA Environmental Duty

The applicant is reminded of his/her general environmental duty, as required by Section 25 of the Environment Protection Act 1993, to take all reasonable and practical measures to ensure that the activities on the whole site, including during construction, do not pollute the environment in a way which causes, or may cause, environmental harm.

(3) Works On Boundary

The development herein approved involves work on the boundary. The onus of ensuring development is in the approved position on the correct allotment is the responsibility of the land owner/applicant. This may necessitate a survey being carried out by a licensed land surveyor prior to the work commencing.

(4) Responsibility In Relation To Flooding

The applicant is reminded that Adelaide Hills Council accepts no responsibility for damage to, or loss of property, as a result of flooding. It is the applicant's responsibility to ensure that all appropriate steps are undertaken to minimise the potential damage to property as a result of flooding.

(5) Native Vegetation Council Requirements

The applicant is advised that any proposal to clear, remove limbs or trim native vegetation on the land, unless the proposed clearance is subject to an exemption under the Regulations of the Native Vegetation Act 1991, requires the approval of the Native Vegetation Council. For further information visit:

www.environment.sa.gov.au/Conservation/Native_Vegetation/Managing_native_vegetation

Any queries regarding the clearance of native vegetation should be directed to the Native Vegetation Council Secretariat on 8303 9777. This must be sought prior to Full Development Approval being granted by Council.

9. ATTACHMENTS

Locality Plan
Proposal Plans
Application Information
Applicant's Professional Reports
Referral Responses
Representation
Applicant's response to representations
Publically Notified Plans

Respectfully submitted

Concurrence

Melanie Scott
Senior Statutory Planner

Deryn Atkinson
Assessment Manager

COUNCIL ASSESSMENT PANEL MEETING

9 June 2021

AGENDA – 8.4

Applicant: Ron Metcalfe Building Designer	Landowner: R N Potter
Agent: -	Originating Officer: Doug Samardzija
Development Application:	20/1087/473
Application Description: Deck attached to dwelling (maximum height 2.4m)	
Subject Land: Lot:151 Sec: P87 DP:3760 CT:5687/167	General Location: 135 Cave Avenue Bridgewater Attachment – Locality Plan
Development Plan Consolidated : 8 August 2019 Map AdHi/36 and AdHi/82	Zone/Policy Area: Watershed (Primary Production) Zone - Rural Living Policy Area 2
Form of Development: Merit	Site Area: 760 m ²
Public Notice Category: Category 2 Merit - DPC & BRC Council lodged at same time	Representations Received: 1 Representations to be Heard: 1

1. EXECUTIVE SUMMARY

The purpose of this application is to obtain Development Plan Consent and Building Rules Consent for the development of a new elevated deck (balcony) addition to the existing detached dwelling above the existing dwelling's garage entrance. The deck addition will be situated forward of the existing building line of the dwelling, towards the Cave Avenue frontage.

The subject land is located within the Watershed (Primary Production) Zone and Rural Living Policy Area No. 2 of the Adelaide Hills Development Plan.

The proposal is a Category 2 form of development in accordance with the Public Notification provisions of the Watershed (Primary Production Zone) of the Development Plan as a *'Deck attached to a dwelling (where not assigned as Category 1'* where a category 1 *deck attached to a dwelling* is limited to 1m above natural ground level. The application received one (1) representation during the Public Notification.

The proposal is a 'consent on merit' form of development.

As per the Adelaide Hills Council Instrument of delegation made pursuant to Section 102 (1) of the Planning, Development and Infrastructure Act 2016, the CAP is the relevant authority for, *'Development applications for development where there are opposing representations which have requested to be heard in response to a Category 2 or 3 public notifications'*.

In consideration of all the information presented, and following an assessment against the relevant zone and Council Wide provisions within the Development Plan, staff are recommending that the proposal be **GRANTED** Development Plan Consent, subject to conditions.

2. DESCRIPTION OF THE PROPOSAL

The proposal is for the construction of a deck, elevated at 2.4 metres above the natural surface of the ground, with posts placed proximate to the boundary to the north-east (Allotment 133) and on the raised garden terrace within the subject land south of the existing driveway.

The proposed decking forms a platform over the existing driveway, maintaining the existing driveway access to the garage and the existing stone wall retaining the raised garden terrace.

The proposed development is 3.2 metres wide and 6 metres deep, constructed abutting the front (north-west face) of the dwelling and is to have a finished level of 2.4 metres above the lower ground level established by the driveway.

The proposed deck will be setback 7.83 metres at the nearest point to the Cave Avenue front property boundary, 0.9 metres decking setback and 0.4 metres structural post setback from the north-eastern side property boundary.

The proposed decking will be of timber construction with timber balustrade posts and top-rail with tensioned stainless steel cable balustrade infill.

The proposed plans are included as **Attachment – Proposal Plans** with other information included as **Attachment – Application Information** and **Attachment – Applicant's Professional Reports**.

3. BACKGROUND AND HISTORY

Nil

4. REFERRAL RESPONSES

The application was not subject to any prescribed mandatory referrals pursuant to Section 37 of the Act and Schedule 8 of the Development Regulations 2008.

5. CONSULTATION

The application was determined to constitute a Category 2 form of development in accordance with Watershed (Primary Production) Zone PDC 72 requiring formal Category 2 public notification. One (1) representation was received in opposition to the proposal from the north-eastern adjoining neighbours.

The following representor wishes to be heard:

Name of Representor	Representor's Property Address	Nominated Speaker
Helen Viant & Kate Bailey	133 Cave Avenue, Bridgewater	Helen Viant

The issues contained in the representation refer entirely to the desire of the neighbours to maintain and preserve a series of pencil pines which exist close to the common boundary of 133 and 135 Cave Avenue. The representor believes that the trees will be threatened by the excavation of the north-eastern side footings for the proposal, which will lie within 155mm off the boundary and beyond the boundary, and approximately 300mm to the trees (approx. 450mm in total from the edge of the footing pads).

It is apparent from the communications through Council and from those which have occurred between the parties, that both wish to retain these trees. The subject trees are not Regulated or Significant status, and have no legislated standing in this assessment.

The representor has provided sections of the Arboriculture report in his response, which outlines that:

7.2 Structural Root Zone (SRZ) & Tree Protection Zone (TPZ) CALCULATIONS

7.2.1 *The SRZ (or CRZ): Structural/Critical Root Zone is the zone around a tree required to protect the tree's stability. Generally, no development activities are permitted within this zone unless there are no other suitable options.*

7.2.2 *The TPZ or Optimal Tree Protection Zone is the principal means of protecting the tree and is calculated using the formula $TPZ = DBH \text{ (diameter @ 1.4 meters above ground level)} \times 12$.*

And,

10 RECOMMENDATIONS

10.1 *Any proposed works at 135 Cave Avenue, Bridgewater SA 5152 that encroaches the Tree Protection Zone (TPZ) and or the Structural Root Zones (SRZ's) are to be undertaken using non-destructive methodologies such as Hydro-vac or by hand to avoid any tree root damage.*

10.2 *This includes works for new carport and any remedial works for the paved driveway.*

10.3 *Any services that maybe required for the proposed development need to avoid the Tree Protection Zone (TPZ) where possible. If there is any encroachment into the Tree Protection Zone (TPZ) non-destructive methods need to be used to undertake.*

10.4 *It is recommended that the trees are irrigated and the area beneath the trees driplines is mulched with a layer or course mulch approximately 50 – 75mm thick.*

In accordance with the Arboriculture report, the necessary tree protection zone formula identified in item 7.2.2 above would be very closely accorded by the 450mm setback of the structural elements from the trees. Respectively, the applicant's response has suggested that:

- 1) *Any digging will be confined to the post holes, and this will be done manually and with care and attention to avoid root damage.*
- 2) *Our own investigation and research has indicated that damage to the roots of the trees from careful digging of the post holes, which is the only possible interference with the trees is, unlikely.*
- 3) *Further, the general advice is that cutting of a root, should that occur, is not likely to affect the tree as long as that is more than twice the distance from the tree as a measure of the circumference of the tree. The circumference of the trees in question are around 60cms. The trees are more than that distance from the boundary, and the post holes more than that distance again inside our boundary.*
- 4) *Our research suggest that pine trees generally have roots that extend straight down into the soil. Because of this, it is considered that pine trees have little effect on foundations, and that pine trees usually have a tap root system, with shallow surface roots.*
- 5) *Any disturbance to the root systems should be only very minimal anyway because there will be piers here, not continuous foundations.*
- 6) *All efforts will be made to avoid roots in fixing the posts.*

- 7) *Our research indicates that candle pine roots are not likely to be any threat to any foundations for the deck.*
- 8) *In the area of the proposed deck the trees do not over hang over my property and there will thus be no interference with the trees in the constructing of the deck.*

As the trees are not within the ambit of Regulated or Significant tree status under the Act, the trees cannot be assessed pursuant to the regulated tree provisions of the Development Plan.

The undertakings of the applicant are however noted and it is considered that the applicant has given reasonable undertaking to the neighbour that reasonable steps will be taken to avoid adverse impact to these trees.

A copy of the submission is included as **Attachment – Representations** and the response is provided in **Attachment – Applicant’s Response to Representations**.

6. PLANNING & TECHNICAL CONSIDERATIONS

This application has been evaluated in accordance with the following matters:

- i. The Site’s Physical Characteristics
The subject land is a regular shaped allotment of approximately 760m² in area and is within a well landscaped urban environment. The allotments are not large, as the ‘Rural Living Policy Area’ might suggest, and therefore interface between properties and land uses is an important factor to ensure that development maintains the existing high level of amenity enjoyed in the locality. Current site improvements include a two storey dwelling with associated domestic structures and well landscaped front and rear yards.
- ii. The Surrounding Area
The locality is characterised by predominantly residential development with the allotments exhibiting relatively consistent pattern of dwellings situated on large residential scale allotments. Many of these have less intensive tree coverage and landscaping, lesser setback to surrounding streets and larger allotment areas than the subject land.
- iii. Development Plan Policy considerations
 - a) Policy Area/Zone Provisions
The subject land lies within the Watershed (Primary Production) Zone - Rural Living Policy Area and these provisions seek:
 - *To maintain and enhance natural resources of the Mount Lofty Ranges particularly water resources.*
 - *To protect the long term sustainability of primary production activities.*
 - *To enhance amenity and landscape value through preservation and restoration of native vegetation.*
 - *To support and develop the tourism industry with accommodation, attractions & facilities and increase visitation and overnight stays in the region.*

The Policy Area in particular embraces the establishment of a range of ‘...*farming, rural and rural residential development*’.

The following are considered to be the relevant *Rural Living Policy Area* provisions:

Objective: 1

PDCs: 1, 5 & 6

The following are considered to be the relevant *Watershed (Primary Production) Zone* provisions:

Objectives: 1, 2, 3, & 5

PDCs: 2, 7, 15, 16, 37

Accordance with the Watershed (Primary Production) Zone and Policy Area

The proposal is not offensive or prejudicial to the intent of the W(PP) zone. However, it is noted that the proposal is particularly in accordance with the intent for urban development within the Rural Living Policy Area, which has been established in this locality.

The proposal comprises additions/alterations which reinforce the residential use of the land, and the residential/rural lifestyle uses which prevail in the locality. The proposal is considered highly unlikely to impair the amenity of the locality or be incompatible with it in terms of use, scale or form.

Form of Development

Development of dwellings in the Zone and Policy area is clearly contemplated by the Development Plan, is not prejudicial to any other land uses and would not undermine the achievement of the objectives of the zone.

The proposal adds to the existing detached dwelling and whilst being proposed forward of the dwelling, the open nature of the structure ensures that it does not significantly alter the external appearance of the dwelling despite it being well concealed by existing landscaping.

Appropriateness of Proposal in Locality

The proposed development is highly unlikely to present any dissimilar or conflicting land use by way of the dwelling additions and alterations. It remains set well back on the allotment and will remain inconspicuous within the surrounding environment.

The proposal is not inconsistent with more condensed residential characteristics established by the existing development within the locality.

Appearance of Land and Buildings

The Development Plan seeks that buildings will have *a high standard of design, with respect to external appearance, choice of materials and colours, being sited to blend with, preserve and enhance the character and amenity of the locality* which is considered to be accorded by the proposed deck's design, appearance and siting.

Conservation

The proposed development does not represent any conflicts with the conservation values of the Zone or Policy Area. The proposal does not affected any existing, or significant vegetation about the existing dwelling which is generally retained and contributes to the landscape and amenity.

b) Council Wide provisions

The *Council Wide* provisions of relevance to this proposal seek (in summary):

- *Appropriate design and appearance standards for buildings.*
- *Orderly and sustainable development.*
- *Avoidance of incompatible land uses.*
- *Residential development meeting appropriate standards of design and hazard reduction / avoidance.*

The following are considered to be the relevant Council Wide provisions:

Design and Appearance

Objectives: 1

PDCs: 1, 3, 9 & 18

Hazards

Objectives: 1, 2 & 5

PDCs: 1, 7 & 10

Residential Development

Objectives: 1 & 2

PDCs: 4, 9, & 27

Siting and Visibility

Objectives: 1

PDCs: 2, 4, 6 & 7

The proposal does not intend to change the land use as there has been long established residential development on the subject land. Further, the proposal does not substantially change the characteristics of the land/built form or the locality as the proposed deck addition is both consistent with the existing dwelling's design and appearance and concealed from clear and direct view by virtue of setbacks and landscaping.

The proposed development is considered to pursue the intent of the plan to provide outlook and passive surveillance to the street from habitable parts of the dwelling.

The site is substantially landscaped with mature trees. However, the close interface of the driveways and the potential to overlook the front yard of No. 133 to the north-east is considered to warrant a condition to maintain the existing, or establish further screening which is currently well represented by the pencil pines, which are the subject of the Category 2 representation.

Landscaping to provide a 'soft interface between land uses' is considered to achieve appropriate means of maintaining amenity between the neighbouring properties and will go some way in limiting the views from the deck into neighbour's front yard. Whilst it is acknowledged that there will be direct views into the neighbouring front yard, it is impractical from a privacy perspective to protect the front yard area from overlooking. It is also generally accepted that front yards of properties are not considered as private open spaces especially in the circumstances where the dwelling is located on a large allotment which provides multiple areas as private open space. As such the retention of the pencil pines along the boundary of the two properties will contribute towards a maintaining the interface between the two allotments and the uses of land. Recommended Condition 3 will ensure the maintenance of existing landscaping and to ensure that any dead or diseased vegetation is replaced in the next planting season.

The site is serviced by on-site wastewater treatment and disposal systems. The development does not interfere with these systems. The development does not propagate or perpetuate any increase in the wastewater disposal requirements and therefore will not create any additional risk to protection of water resources in the zone.

The proposed deck is not considered to be at unreasonable risk from a bushfire. The Building Rules assessment must establish that the design and construction do not compromise the bushfire resistance of the existing dwelling. The site is not at risk of flooding or inundation.

The proposal seeks to establish a domestic addition to the dwelling in a manner which is consistent with the intent of the Zone and particularly the Rural Living Policy Area and is complimentary to the development and land uses in the surrounding locality.

7. SUMMARY & CONCLUSION

The proposal assessed against the provisions of the Adelaide Hills Development Plan, Consolidated 8 August 2019, is considered to demonstrate adequate merit insofar that it can suitably blend with the surrounding natural and built environment of the locality in which it will be situated, is of a high standard of design and its appearance is considered to improve the overall aesthetic of the existing dwelling.

The proposed development is highly unlikely to create any interface issues with surrounding land uses, save for the concern exhibited by the neighbour regarding the preservation of the boundary landscaping. Whilst some overlooking will occur, this overlooking is not going to be into private open space areas of the neighbouring property and the views will be limited due to the existing screening vegetation along the boundary of the subject land and neighbouring property to the east.

The proposal is considered to sufficiently satisfy with the relevant provisions of the Development Plan, and is not considered to be seriously at variance with the Development Plan. In the view of staff, the proposal has sufficient merit to warrant consent. Staff therefore recommend that Development Plan Consent be **GRANTED**, subject to conditions.

8. RECOMMENDATION

That the Council Assessment Panel considers that the proposal is not seriously at variance with the relevant provisions of the Adelaide Hills Council Development Plan, and GRANTS Development Plan Consent to Development Application 20/1087/473 by Ron Metcalfe Building Designer for Deck attached to dwelling (maximum height 2.4m) at 135 Cave Avenue Bridgewater subject to the following conditions:

(1) Development In Accordance With the Plans

The development herein approved shall be undertaken in accordance with the following plans, details and written submissions accompanying the application, unless varied by a separate condition:

- Stormwater Drainage Layout & Site Plan prepared by R Metcalfe Building Designer, drawing number 020.0909 dated September 2020 and date stamped by Council 14/10/2020
- Carport setout plan prepared by R Metcalfe Building Designer, drawing number 020.0909 dated September 2020 and date stamped by Council 14/10/2020
- Upper level deck setout plan prepared by R Metcalfe Building Designer, drawing number 020.0909 dated September 2020 and date stamped by Council 14/10/2020
- Front elevation as existing drawing prepared by R Metcalfe Building Designer, drawing number 020.0909 dated September 2020 and date stamped by Council 14/10/2020
- Front elevation [N/V] drawing prepared by R Metcalfe Building Designer, drawing number 020.0909 dated September 2020 and date stamped by Council 14/10/2020
- Side elevation [S/V] drawing prepared by R Metcalfe Building Designer, drawing number 020.0909 dated September 2020 and date stamped by Council 14/10/2020
- Side elevation [NE] drawing prepared by R Metcalfe Building Designer, drawing number 020.0909 dated September 2020 and date stamped by Council 14/10/2020

(2) External Materials and Finishes

All external materials and finishes for the buildings work herein approved shall be finished in either subdued painted colours or natural finishes which blend with the natural features of the landscape.

(3) Boundary Landscape Screening

A landscaping screening strip of pencil pines shall be maintained along the north eastern boundary at the length of at deck. Landscaping shall be maintained in good health and condition at all times with any dead or diseased plants being replaced in the next planting season.

NOTES

(1) Development Plan Consent (DPC) Expiry

This Planning Consent is valid for a period of twenty four (24) months commencing from the date of the decision.

Building Consent must be applied for prior to the expiry of the DPC.

(2) Erosion Control During Construction

Management of the property during construction shall be undertaken in such a manner as to prevent denudation, erosion or pollution of the environment.

(3) EPA Environmental Duty

The applicant is reminded of his/her general environmental duty, as required by Section 25 of the Environment Protection Act 1993, to take all reasonable and practical measures to ensure that the activities on the whole site, including during construction, do not pollute the environment in a way which causes, or may cause, environmental harm.

(4) Works on Boundary

The development herein approved involves work near the boundary which may be deemed to affect stability of other land. The onus of ensuring development is in the approved position on the correct allotment is the responsibility of the land owner/applicant. This may necessitate a survey being carried out by a licensed land surveyor prior to the work commencing.

9. ATTACHMENTS

Locality Plan
Proposal Plans
Representation
Applicant's response to representations

Respectfully submitted

Concurrence

Doug Samardzija
Statutory Planner

Deryn Atkinson
Assessment Manager

COUNCIL ASSESSMENT PANEL MEETING

9 June 2021

AGENDA – 8.5

Applicant: Sasha & Gary Holland	Landowner: S J L & G L Holland
Agent: Philip Harnett (URPS)	Originating Officer: Damon Huntley
Development Application:	20/1198/473
Application Description: Two storey detached dwelling, deck (maximum height 4.12m), combined fence & retaining walls (maximum height 3.4m), swimming pool & associated barriers, masonry fence, associated earthworks & landscaping	
Subject Land: Lot:50 Sec: P2797 DP:111446 CT:6175/564	General Location: 9 Braemar Terrace Stirling Attachment – Locality Plan
Development Plan Consolidated: 08 August 2019 Map AdHi/28 & AdHi/72	Zone/Policy Area: Country Living Zone - Country Living (Stirling And Aldgate) Policy Area
Form of Development: Merit	Site Area: 771 m ²
Public Notice Category: Category 2 Merit	Representations Received: 6 Representations to be Heard: 4 (previously heard)

1. EXECUTIVE SUMMARY

The purpose of this application is to construct a two-storey detached dwelling, deck (maximum height 4.12m), combined fence & retaining walls (maximum height 3.4m), swimming pool and associated barriers, masonry fence, associated earthworks & landscaping.

The application was deferred by CAP on 12 May 2021 to allow the Applicant to respond to the following design matters:

- (1) The scale of the front balcony and level of intrusion into the streetscape.
- (2) The building set-back to the western boundary.
- (3) To provide a revised Landscaping Plan that amends the plant species for the front garden to be of an evergreen nature and of a height and volume of canopy that provides increased screening to the streetscape.

Following the provision of revised drawings and an assessment against the relevant zone and Council Wide provisions within the Development Plan, staff are recommending that the proposal be **GRANTED** Development Plan Consent, subject to conditions.

2. DISCUSSION OF REVISED DRAWINGS AND UPDATED LANDSCAPE PLAN

(1) The scale of the front balcony and level of intrusion into the streetscape

During the Council Assessment Panel meeting of 12 May 2021, the Panel considered that the overall size and scale of the front balcony would form a highly prominent feature of the dwelling, and determined that the element would form an intrusive component of the building when viewed within the immediate streetscape.

In response to the matter raised by the Panel, the Applicant has amended the design of the balcony positioned at the front of the proposed dwelling. The table below provides an overview of the design alterations relating to the balcony (refer to the change of dimensions listed in the column labelled 'Drawing 04 of 07 Rev F'):

	Drawing 04 of 07 Rev E	Drawing 04 of 07 Rev F
Depth	4m (maximum) 3.5m (minimum) 3m (cantilevered canopy above)	3m (maximum) 2m (minimum) 2m (cantilevered canopy above)
Width	10.3m 5.8m (cantilevered canopy above)	10.3m 5.8m (cantilevered canopy above)
Total Area	39.03m ²	26.6m ²

As illustrated in the table above, the set-back distance of the primary balcony (from the living area) has reduced by a depth of 1 metre (i.e. 25%), and the set-back distance of the secondary balcony (from bedroom 1) has reduced by a depth of 1.5 metres (or 43%). The canopy projection cantilevered above the primary balcony has reduced from 3 metres to 2 metres. The change of dimensions to the total balcony area amounts to a reduction in the order of 32%.

It is noted that the main building line of the dwelling complies with the 8m minimum front setback requirement as desired by PDC 9 (Country Living Zone). However, it is acknowledged that the upper-level balcony does intrude within the 8m set-back area between the main face of the dwelling and the front boundary of the property. From the front boundary of the site, the balcony would be set-back a minimum distance of 6.5 metres, to a maximum of 7.5 metres.

Whilst the balcony is positioned within the 8 metre separation distance sought by PDC 9, the reduced set-back distance of the balcony is considered to be acceptable as the balcony forms an open profile, offering visual permeability to the principle elevation of the dwelling.

Furthermore, it is considered that the balcony integrates and enhances the overall aesthetic of the frontage of the dwelling. In addition, it is considered that the reduced size of the balcony integrates well with the overall size and scale of the dwelling,

providing both articulation and visual interest in a way that does not excessively exacerbate the overall bulk and scale of the building as viewed from Braemar Terrace.

(2) The building set-back to the western boundary

The Applicant has amended the design of the dwelling to incorporate a greater set-back distance from the western boundary. The table below outlines the design alterations relating to the minimum set-back distance to the side boundary (refer to the change of dimensions listed in the column labelled 'Drawing 02 of 07 Rev F'):

	Drawing 02 of 07 Rev E	Drawing 02 of 07 Rev F
Minimum set-back distance	1.005m	1.505m
Length of subject wall	4.3m	4.3m

As demonstrated in the table above, the minimum set-back distance of the western wall has been reconfigured from 1.005 metres to a set-back distance of 1.505 metres (i.e. a 50% increase).

It is noted that the western wall of the dwelling is a maximum height of 6.5 metres, measured from natural ground level below. It is noted that the western wall of the dwelling only exceeds 6 metres across 2.7 metres of wall length. The remaining 14.9 metres of the western wall ranges between a maximum height of 6 metres (measured above natural ground level), and a minimum of 3.3 metres (measured from finished ground levels).

In terms of side set-backs, a depth of 13.6 metres of the western wall does not meet the 3 metre set-back distance sought by PDC 9 (Country Living Zone), but does comply for 4.1 metres of the wall length.

It is noted that 76% of the total western wall does not meet to the set-back requirements of PDC 9, and the area of wall breaching the desired set-back parameter forms a depth of 43% of the total side boundary length of the allotment. While an additional side set-back distance of 0.5m to 1m would bring the design closer to the desired side set-back parameters of PDC 9, regard has been given to the limited site area of the subject land, and the area of the site for which is suitable to accommodate the footprint of the dwelling.

It is noted that the adjoining site at 7A Braemar Terrace is currently a vacant allotment, and as a result, the maximum height of the wall will not give rise to any overshadowing. It is noted that the side set-back requirements are achieved on the eastern flank of the dwelling. When considered on balance, the design shortfall against the setback guidelines in PDC 9 does not warrant refusal of the application.

(3) To provide a revised Landscaping Plan that amends the plant species for the front garden to be of an evergreen nature and of a height and volume of canopy that provides increased screening to the streetscape

An amended Landscape Plan (Version 2) prepared by Stirling Garden Design Studio has been updated to incorporate a selection of additional tree species to soften the appearance of the front of the property, and further mitigate exchange of views between the dwelling

and Braemar Terrace. The following table prepared by Phil Harnett of URPS provides the list of additional tree species forming the amended Landscape Plan:

Identification Number on Landscape Plan	Common Species Name	Evergreen?	Mature Height	Mature Width
16	Hilli Flash	Yes	10 metres	3 metres
18	Smoke Bush	No	4 metres	2 metres
19	Crepe Myrtle	No	8 metres	4 metres

As outlined in the planning report prepared by Phil Harnett of URPS dated 18 May 2021, the trees (particularly the seven (7) 'Hilli Flash' trees) will be planted in incremental spaces to serve as a hedge, allowing minimal visibility into and out of the subject land. In seeking to establish an effective measure of screening between adjacent properties, the planning report states the following:

“The mature height and width of the trees ensures suitable screening to adjacent properties, particularly when considered against the separation distance and established trees already present on neighbouring properties.”

The two rows of Hilli Flash trees would cover a combined length of 17 metres across the front boundary of the property (approximately 70% of the front boundary length). The two rows of the Hilli Flash trees are separated to allow passage of the centrally positioned driveway from Braemar Terrace.

It is considered that the amended Landscape Plan prepared by Stirling Garden Design Studio dated 24 May 2021 will allow sufficient screening trees to be planted to both soften the appearance of the property boundaries, and further mitigate exchange of views between the dwelling and Braemar Terrace. Should the application be supported by the Council Assessment Panel, staff recommend a condition of consent relating to the proposed tree planting and planting timeframes (refer to Condition 8 below).

The revised plans and documentation is included as ***Attachment – Proposal Plans***.

3. SUMMARY & CONCLUSION

The development proposal to construct a two-storey detached dwelling and associated earthworks at 9 Braemar Terrace, Stirling demonstrates a reasonable consistency with the relevant provisions of the Development Plan.

Despite the opposition from neighbouring residents exhibited through the public notification process, the proposal is considered to adequately respond to and address the relevant concerns, in particular matters relating to character and amenity impacts.

Further, the proposal is considered to represent an appropriate form of development for the site that responds to the site conditions. The proposed dwelling is designed to respond to the topography of the site, the visual impact is anticipated based on the bulk and scale of nearby dwellings and will be landscaped to soften the proposal and to provide screening.

For the above reasons, the proposal is sufficiently consistent with the relevant provisions of the Development Plan, and it is considered the proposal is not seriously at variance with the Development Plan. In the view of staff, the proposal has sufficient merit to warrant consent. Staff therefore recommend that Development Plan Consent be **GRANTED**, subject to conditions.

4. RECOMMENDATION

That the Council Assessment Panel considers that the proposal is not seriously at variance with the relevant provisions of the Adelaide Hills Council Development Plan, and GRANTS Development Plan Consent to Development Application 20/1198/473 by Sasha & Gary Holland for Two storey detached dwelling, deck (maximum height 4.12m), combined fence & retaining walls (maximum height 3.4m), swimming pool & associated barriers, masonry fence, associated earthworks & landscaping at 9 Braemar Terrace Stirling subject to the following conditions:

(1) Development In Accordance With The Plans

The development herein approved shall be undertaken in accordance with the following plans, details and written submissions accompanying the application, unless varied by a separate condition:

- **Amended Site Plan (Lower Floor) drawn by In Property Design Sheet 01 of 07 Rev F (received by Council dated 20 May 2021)**
- **Amended Site Plan (Upper Floor) drawn by In Property Design Sheet 02 of 07 Rev F (received by Council dated 20 May 2021)**
- **Amended Floor Plan (Lower Level) drawn by In Property Design Sheet 03 of 07 Rev F (received by Council dated 20 May 2021)**
- **Amended Floor Plan (Upper Level) drawn by In Property Design Sheet 04 of 07 Rev F (received by Council dated 20 May 2021)**
- **Amended Elevations (Front / Side / Pool) drawn by In Property Design Sheet 05 of 07 Rev F (received by Council dated 20 May 2021)**
- **Amended Elevations (Rear / Side) drawn by In Property Design Sheet 06 of 07 Rev F (received by Council dated 20 May 2021)**
- **Amended Streetscape Elevation drawn by In Property Design Sheet 05 of 07 Rev F (received by Council dated 20 May 2021)**
- **Amended Section Plan (Section Along Driveway Floor Levels) by In Property Design Drawing No. 626020 - C2 Issue A dated Oct 2020 (received by Council dated 24 March 2021)**
- **Amended Siteworks and Stormwater Drainage Plan by In Property Design Drawing No. 626020 - C1 Issue B dated Oct 2020 (received by Council dated 24 March 2021)**
- **Letter to Council by Phil Harnett of URPS Ref: 21ADL-0237 dated 18 May 2021 (received by Council dated 18 May 2021)**
- **Amended Landscape Plan drawn by RS of Stirling Garden Design Studio dated 24 May 2021 (received by Council dated 24 May 2021)**
- **Easement Identification Plan (received by Council dated 18 January 2021)**

- Amended Site Stormwater Calculations by Nigel Hallett and Associates dated March 2021 (received by Council dated March 2021)
- Cover Letter written by Sasha and Gary Holland dated 06 November 2020 (received by Council dated 06 November 2020)
- Letter of Agreement (Consent to Build Over and Within Easement) written by Paul Collins dated 29 April 2021 (received by Council dated 04 May 2021)

(2) **Residential Access Point – SD13**

The vehicle access point(s) and cross over shall be constructed in accordance with Adelaide Hills Council standard engineering detail SD13 - residential vehicular crossing paved for sealed road with kerb and SD16 – allowable crossover locations, within 3 months of occupation/use of the development

(3) **External Finishes**

The external finishes to the building herein approved shall be as follows:

WALLS: Scyon Wall Cladding - Hayes Colour Expressions, Pale Mushroom 4 or similar

ROOF: Windspray or similar

(4) **Soil Erosion Control**

Prior to construction of the approved development straw bales (or other soil erosion control methods as approved by Council) shall be placed and secured below areas of excavation and fill to prevent soil moving off the site during periods of rainfall.

(5) **Firefighting Water Supply - Mains Water Supply Available**

A supply of water independent of reticulated mains supply shall be available at all times for fire fighting purposes:

- A minimum supply of 2,000 (two thousand) litres of water shall be available for fighting purposes at all times; and
- The water supply shall be located such that it provides the required water; and
- The water supply shall be fitted with domestic fittings (standard household taps that enable an occupier to access a supply of water with domestic hoses or buckets for extinguishing minor fires); and
- The water supply outlet shall be located at least 400mm above ground level for a distance of 200mm either side of the outlet; and
- A water storage facility connected to mains water shall have an automatic float switch to maintain full capacity; and
- Where the water storage facility is an above-ground water tank, the tank (including any support structure) shall be constructed of non-combustible material.

(6) **Stormwater Overflow Directed To Street**

All roof run-off generated by the development hereby approved shall be directed to a rainwater tank with overflow to the street (via a pump if necessary) or a Council drainage easement to the satisfaction of Council within one month of the roof cladding being installed. All roof and hard paved water runoff shall be managed to prevent trespass onto adjoining properties and into the effluent disposal area where an on-site waste control system exists.

Overflow from rainwater tanks is to be directed to the street (via a pump if necessary) or managed on-site to the satisfaction of Council using design techniques to the satisfaction of Council.

(7) Swimming Pool Backwash Water

Backwash water from swimming pool filter(s) shall be directed to the sewer.

(8) Timeframe For Landscaping To Be Planted

Landscaping as detailed on Amended Landscape Plan prepared by Stirling Garden Design Studio dated 24 May 2021 shall be planted in the planting season following occupation and maintained in good health and condition at all times. Any such vegetation shall be replaced in the next planting season if and when it dies or becomes seriously diseased.

NOTES

(1) Development Plan Consent Expiry

This Development Plan Consent (DPC) is valid for a period of twelve (12) months commencing from the date of the decision or, if an appeal has been commenced, the date on which it is determined, whichever is later.

Building Consent must be applied for prior to the expiry of the DPC and lodged through the PLANSA portal unless a private certifier was engaged prior to 19 March 2021. The time period may be further extended by Council agreement following written request and payment of the relevant fee.

(2) Public Utility Services

Public utility services including light poles and conduits may be present in the road reserve area and it is the property owner's responsibility to ensure these services are not damaged as a result of the development. It is the property owner's responsibility to negotiate the alteration of services in the road reserve. All services within the road reserve should be located prior to any excavation.

(3) Works On Boundary

The development herein approved involves work on the boundary. The onus of ensuring development is in the approved position on the correct allotment is the responsibility of the land owner/applicant. This may necessitate a survey being carried out by a licensed land surveyor prior to the work commencing.

(4) Sewer Connection

The dwelling shall be connected to SA Water mains sewer supply in accordance with the approval granted by SA Water. All work shall be to the satisfaction of SA Water.

(5) EPA Environmental Duty

The applicant is reminded of his/her general environmental duty, as required by Section 25 of the Environment Protection Act 1993, to take all reasonable and practical measures to ensure that the activities on the whole site, including during construction, do not pollute the environment in a way which causes, or may cause, environmental harm.

(6) Erosion Control During Construction

Management of the property during construction shall be undertaken in such a manner as to prevent denudation, erosion or pollution of the environment.

(7) Surveyed Boundaries

The onus of ensuring that any wall or fence is located in the approved position on the correct allotment is the responsibility of the land owner/applicant. This may necessitate a boundary survey being undertaken by a licensed land surveyor prior to the work commencing and when the wall is complete.

9. ATTACHMENTS

Amended Proposal Plans

Respectfully submitted

Concurrence

Damon Huntley
Statutory Planner

Deryn Atkinson
Assessment Manager

COUNCIL ASSESSMENT PANEL MEETING

9 June 2021

AGENDA – 8.6

Applicant: Simon Lucas	Landowner: S A & J A Lucas
Agent: Simon Lucas	Originating Officer: Damon Huntley
Development Application:	21/238/473 21/D006/473
Application Description: Land division - boundary realignment (2 into 2) (Non-complying)	
Subject Land: Lot:15 Sec: P499 DP:5524 CT:5611/669 Subject Land: Lot:20 Sec: P499 DP:83802 CT:6062/211	General Location: 70A and 72 Sheoak Road Crafrers West Attachment – Locality Plan
Development Plan Consolidated: 08 August 2019. Maps AdHi/27 & AdHi/71	Zone/Policy Area: Country Living Zone , Hills Face Zone
Form of Development: Non-complying – No Statement of Effect Required (R. 17 (6)(c)).	Site Area: 72 Sheoak Road: 2,173 square metres. 70A Sheoak Road: 800 square metres.
Public Notice Category: Category 1 (Sch. 9 Part 1 (3)(c)).	Representations Received: N/A Representations to be Heard: N/A

1. EXECUTIVE SUMMARY

The purpose of this application is for a minor boundary realignment (two existing allotments into two allotments) for the owners of 70A Sheoak Road to acquire the rear portion of land from 72 Sheoak Road, and have the rear portion of land realigned to form part of 70A Sheoak Road. The owner of 70A Sheoak Road seeks to acquire the vacant portion of land and retain in its current formation.

The subject land is located within the Country Living Zone and the Hills Face Zone as delineated in Map set AdHi/27 and is not subject to any Policy Area as per Map AdHi/71.

The subject allotments are located in both the Hills Face Zone and the Country Living Zone. Given that the subject land is located within the Hills Face Zone, the proposal is prescribed as a non-complying form of development. The proposal, being a boundary realignment resulting in the same number of allotments as the existing, is a Category 1 form of development pursuant to Schedule 9 Part 1 (3)(c) of the *Development Regulations 2008*, and accordingly, the application has not been subject to public notification.

The main issues relating to the proposal are as follows:

- Preservation of the natural character of the Hills Face Zone
- Orderly pattern of allotments within the Hills Face Zone
- High Bushfire Risk bushfire protection
- Impact on native vegetation

As per the CAP delegations, the CAP is the relevant authority for Category 3 non-complying development.

Pursuant to Section 35 of the *Development Act 1993*, the date of this application, being lodged on 17 February 2021 ‘post deletion’ of Section 35 (3) of the *Development Act 1993*, effective on 15 May 2020 the Relevant Authority will not be required to obtain the concurrence of the State Planning Commission in determining this application.

In consideration of all the information presented, and following an assessment against the relevant Zone and Council Wide provisions within the Development Plan, staff are recommending that the proposal be **GRANTED** Development Plan Consent and Land Division Consent, subject to conditions.

2. DESCRIPTION OF THE PROPOSAL

The proposed development seeks consent for the realignment of the common boundary between existing properties at 72A and 72 Sheoak Road, Crafers West. The realignment of the allotments contributes to a more consistent and orderly pattern of allotments in the locality (see Figure 1 & 2 below), and results in allotments being created with the following attributes:

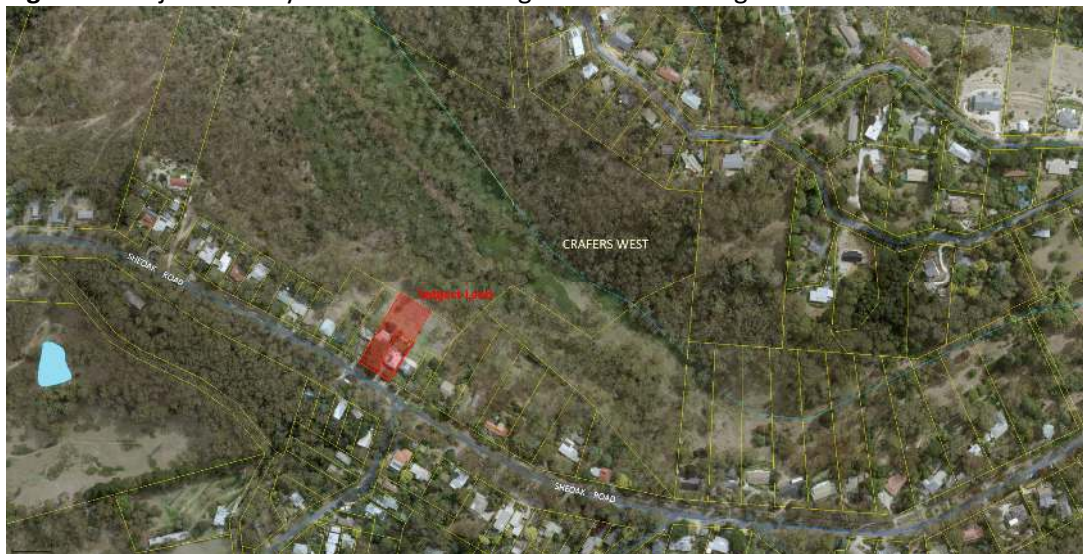
Existing Allotments

Allotment	Area (ha)	Containing	Configuration
15	840m ²	Existing Dwelling	Conventional rectangular
20	2169m	Existing Dwelling	Inverted ‘L’ shape (not battleaxe form)

Proposed Allotments

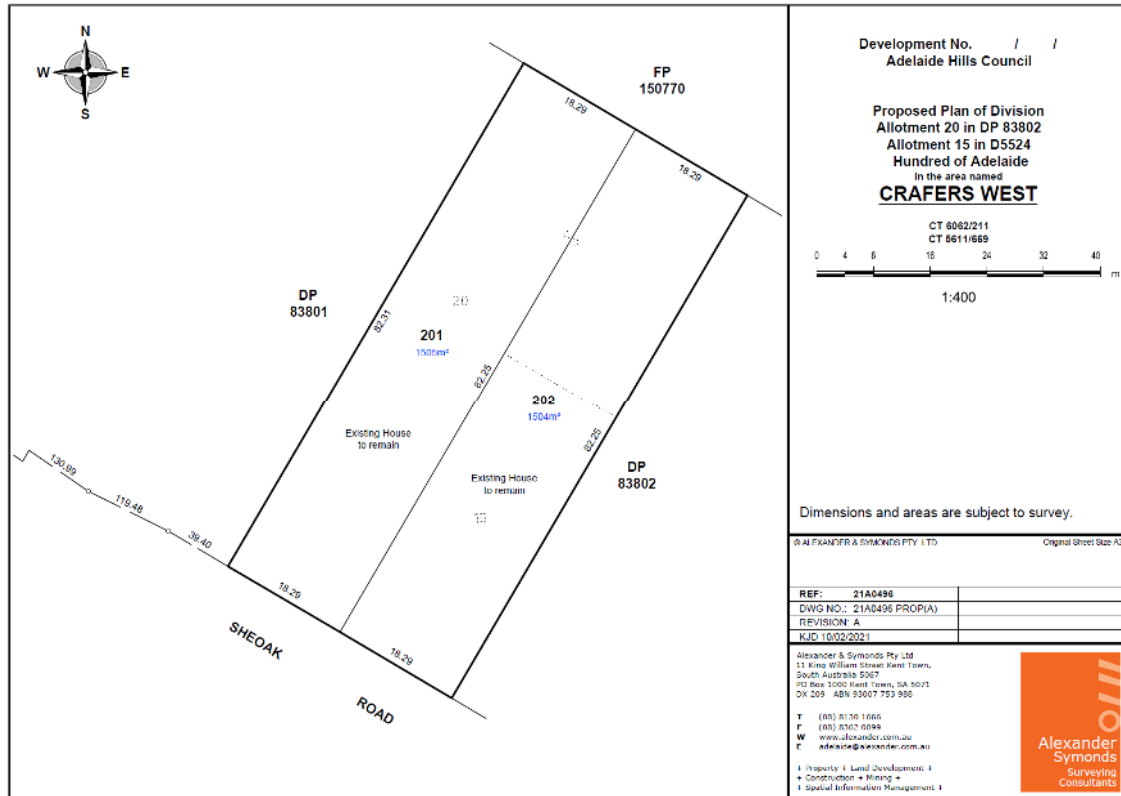
Allotment	Area (ha)	Containing	Configuration
202	1505m ²	Existing Dwelling	Conventional rectangular
201	1504m	Existing Dwelling	Conventional rectangular

Figure 1: Subject Locality & Land and existing allotments’ configuration.



Source: SAPPA

Figure 2: Resultant allotments' configuration.



The proposed boundary realignment will maintain two detached dwellings within independent allotments, maintaining 'status quo' of the existing dwellings and associated outbuildings. As for the rear of the two subject parcels, the boundary realignment seeks to distribute the rear north-eastern portion of land of 72 Sheoak Road to the rear of 70A Sheoak Road, forming two evenly handed allotments as depicted in figure 2 above.

As proposed, the subject allotments would form two rectangular shaped allotments, both having a depth of 82 metres, a width of 18.2 metres, and site areas in the order of 1,504 square metres.

Application detail and reference to previously approved wastewater system plans confirms that on-site wastewater treatment and disposal systems appurtenant to the two subject land parcels will not inadvertently become divorced from their respective dwellings, and therefore, no existing plumbing infrastructure would be impinged upon by the proposed boundary realignment.

3. BACKGROUND AND HISTORY

APPROVAL DATE	APPLICATION NUMBER	DESCRIPTION OF PROPOSAL
20 October 2020	20/1084/473	Verandah (70A Sheoak Road, Crafers West)
14 January 2010	09/186/473	Inground Swimming Pool and associated earthworks (70A Sheoak Road, Crafers West)

06 October 2009	08/1302/473	Two storey detached dwelling with garage under main roof, associated earthworks and retaining walls (70A Sheoak Road, Crafers West)
-----------------	-------------	---

4. REFERRAL RESPONSES

There were no Mandatory Referrals required pursuant to Schedule 8 of the Development Regulations 2008 and no informal referrals were undertaken.

The application was referred by the State Planning Commission via the EDALA system to the SA Water Corporation:

SA WATER CORPORATION

SA Water has no requirements for the proposed development – as the dwellings and existing servicing arrangements remain unaltered as a result of the proposed boundary realignment.

STATE PLANNING COMMISSION (SCAP)

The State Planning Commission has provided a standard condition to be imposed on any consent.

1. A final plan complying with the requirements for plans as set out in the Manual of Survey Practice Volume 1 (Plan Presentation and Guidelines) issued by the Registrar General to be lodged with the Development Assessment Commission for Land Division Certificate purposes.

The above referral response is included as **Attachment – Referral Responses**.

5. CONSULTATION

The application was determined to be a Category 1 form of development in accordance with Schedule 9 Part 1 (3)(c) of the Development Regulations 2008, which provides that:

3. Any development classified as non-complying under the relevant Development Plan which comprises—

(a)

(b)

(c) the division of land where the number of allotments resulting from the division is equal to or less than the number of existing allotments.

As the proposal seeks a boundary realignment resulting in the same number of allotments as currently exist, the proposal is determined to be a Category 1 form of development not requiring public notification.

6. PLANNING & TECHNICAL CONSIDERATIONS

This application has been evaluated in accordance with the following matters:

i. The Site's Physical Characteristics

The subject land parcels are currently 840 m² and 2169 m² in area respectively and will result in adjusted allotments of 1504 m² and 1505 m² respectively, with a transfer of just 664 m² occurring within the rear northern portion of land. This rear portion of land is undeveloped, is considerably sloping downhill towards Brownhill Creek and is practically devoid of vegetation with the exception of grasses / ground cover.

In terms of land use and built form, both subject allotments are used for residential purposes, each containing an existing dwelling. 70A Sheoak Road comprises an existing swimming pool located at the rear of the dwelling. To the rear of the dwelling at 70A Sheoak Road, land levels fall in three incremental tiers, levelled with retaining walls and a staircase. Both allotments are accessed via independent driveways directly from Sheoak Road. Large native trees are situated between the dwelling and front boundary of 72 Sheoak Road. Existing outbuildings are located to the front and rear of the dwelling at 72 Sheoak Road.

ii. The Surrounding Area

The surrounding area is influenced by the nature and function of Sheoak Road resulting in a ribbon of rectangular shaped allotments. To the north, a backdrop of native bushland extends downhill in the direction of Brownhill Creek. To the south of the subject allotments, an existing residential settlement pattern follows Albert Avenue, George Avenue, and Edward Avenue. Larger land holdings are located further to the west, characterised by dwellings, outbuildings, dams, and areas of dense native vegetation.

Allotments within the locality range between a minimum site area of 700 square metres (91 Sheoak Road), and a maximum site area of 1.5 ha (93 Sheoak Road). The depth and area of the proposed allotments would assimilate with the general pattern of allotments within the surrounding locality. Given that the boundary realignment relates to the rear of the subject allotments, the proposal would not affect the existing built form within the wooded streetscape.

iii. Development Plan Policy considerations

a) *Policy Area/Zone Provisions*

The subject land is located within the Hills Face Zone and the Country Living Zone of the Adelaide Hills Development Plan (Consolidated 8 August 2019). No Policy Area applies to the subject allotments.

The Hills Face Zone provisions seek to preserve and enhance the natural characteristics of land in the area for its aesthetic and biodiversity value whilst accommodating sensitive forms of development which do not undermine the objectives of the zone.

The zone also emphasises protection and enhancement of native vegetation and acknowledges the importance of development incorporating fire protection measures to minimize the fire risk.

The Country Living Zone seeks to accommodate a low and very low density pattern of residential development in areas that are influenced by undulating topography. The zone anticipates various allotment sizes, and a mixture of dwelling sizes comprising both traditional and modern designs.

The following are considered to be the relevant Zone provisions:

Hills Face Zone

Objectives: 1, 2
PDCs: 1, 3, 15,

Country Living Zone

Objectives: 1, 2, 3
Desired Character Statement: Para 1, 2, 3 & 8
PDCs: 1, 7, 14

Accordance with Zone

The relevant zone provisions illustrate the intention that development should occur in a manner that remains unobtrusive and preserves the natural environment with particular regard to the Hills Face Zone. Additionally, development of the land shall maintain 'low' to 'very low' development density.

The proposed boundary realignment does not alter the density of development within the locality. The resulting allotments will continue to support two detached dwellings. It is noted that the proposal will rearrange the allotment boundaries into a more orderly composition where each dwelling is situated upon uniform and evenly sized land parcels.

The area of land intended for the boundary realignment does not cover an area of vegetation, and as such, the proposal preserves the existing landscape, with no loss of vegetation as a result of the proposed boundary realignment.

The establishment of the realigned boundary will not increase visibility of the dwellings upon either allotment within the street. In regard to views from the road, it is noted that the dwellings already have presence within the streetscape.

As discussed previously within this report, the boundary realignment is fundamentally an administrative one, to better distribute land evenly and orderly between the two subject land parcels.

The proposal is not considered to be prejudicial to the natural landscape amenity of the locality.

Form of Development

The Country Living Zone PDC 1 seeks 'dwelling' as an envisaged form of development within the zone. As the proposal seeks a realignment between adjoining boundaries, the proposed development is consistent and continues the existing residential land uses within that zone.

The Hills Face Zone seeks preservation of the natural environment and natural aesthetics and biodiversity of land, which is also substantially achieved in this application. No adverse impacts will result from the realignment of the boundaries, and there will be no impact to the natural environment or its appearance. The proposal will not propagate or perpetuate any greater impact upon the land in terms of land use or built form than what is already existing.

The form of the proposed development is considered to be consistent with the relevant objectives and intent of the Country Living Zone and the Hills Face Zone.

Appropriateness of Proposal in Locality

Based upon consistency of land size, the existing residential settlement pattern established in the locality, and absence of any proposed building work, and tree damaging activities, the proposal is considered to be appropriate within the zones.

b) Council Wide provisions

The Council Wide provisions of relevance to this proposal seek to reinforce safety of life and property from natural hazards, in this instance, high bushfire risk. Development shall maintain pleasant and attractive urban environments with appropriate residential densities within the urban environment, and continue to preserve and enhance the attractive character and natural environment of the Hills face.

The Council Wide land division provisions seek to ensure that the arrangement of land is orderly and does not result in improper arrangement of boundaries, or land parcels inappropriate for their intended use.

The Council Wide provisions of relevance to this proposal seek (in summary):

Hazards

Objectives: 1 & 2

PDCs: 8 & 13

The proposal is considered to be accordance with the relevant Hazards provisions, particularly PDC's 8 & 13. The adjustment of the allotment boundaries not only preserves the residential use of each allotment, but also secures each land owners' legal capability to retain asset protection areas in order to maintain and protect that land upon the relevant land titles.

Elements of access, and water supply are existing and established, with only the arrangement of the dividing boundary and the tenure of the land being altered. No dedicated water storage tanks would be separated from either property as a result of the boundary realignment.

Land Division

Objectives: 1, 2 & 4

PDCs: 2 & 7

The proposal is considered to be in accordance with the land division provisions, specifically noting that all infrastructure exists and is not proposed to change as a result of the boundary realignment. The arrangement of the on-site effluent treatment and disposal systems are confirmed to be contained wholly within each resulting allotment, and as such, no waste systems would be divorced from either property as a result of the boundary realignment.

The proposed realignment of the boundary creates an appropriate composition of land and buildings within the surrounding settlement pattern. It is noted that the even site areas, and parallel length of the central common boundary will provide an equal amount of open space at the rear of each property, offering a uniform and orderly arrangement of residential land.

Natural Resources

Objectives: 8, 10, 13 & 14

PDCs: 6 & 38

The Council Wide Natural Resources provisions generally seek protection of the natural landscape and biodiversity value of sensitive and significant natural environments. The proposal does not seek to intensify the existing use of land, and does not seek to perpetuate any additional development within the subject allotments. The boundary realignment does not propagate any new or increased development opportunity for the subject sites, and does not create the need for any vegetation clearance for the creation of boundaries or fencing.

The proposed boundary realignment will have negligible impact upon the Hills Face Zone and the natural wooded character of the surrounding area. It is anticipated that the boundary realignment would allow for the installation of a new shared boundary fence, which would be centrally located in the lower vacant portion of land of the 72 Sheoak Road. The proposed fence would not have an impact on native trees, or any other sensitive natural features.

The proposal is not considered to be prejudicial to the natural resources within the locality or undermine the Development Plan policy intent to protect land, water, and biodiversity in sensitive and significant natural environments.

7. SUMMARY & CONCLUSION

The proposal assessed against the provisions of the Adelaide Hills Development Plan, Consolidated 8 August 2019, is considered to demonstrate appropriate merit to be supported by Council's Assessment Panel.

The relatively minor alteration of the common boundary will not detrimentally affect the semi-rural character of the surrounding locality. Rather it will further establish consistency and order in the configuration of allotments.

The proposed boundary realignment is fundamentally administrative in nature and does not purport any unreasonable impacts to the natural environment or the amenity of the area. The proposal simply establishes new and orderly boundaries for the residential uses of the existing allotments.

The proposal is therefore considered to be sufficiently consistent with the relevant provisions of the Development Plan, and it is considered the proposal is not seriously at variance with the Development Plan. In the view of staff, the proposal has sufficient merit to warrant consent. Staff therefore recommend that Development Plan Consent be **GRANTED**, subject to conditions.

8. RECOMMENDATION

That the Council Assessment Panel considers that the proposal is not seriously at variance with the relevant provisions of the Adelaide Hills Council Development Plan, and GRANTS Development Plan Consent and Land Division Consent to Development Application 21/238/473 (21/D006/473) by Simon Lucas for Land division - boundary realignment (2 into 2) (Non-complying) at 70A and 72 Sheoak Road, Crafers West SA 5152 subject to the following conditions:

Planning Conditions

(1) Development in Accordance with the Plans

The development herein approved shall be undertaken in accordance with the following plans, details and written submissions accompanying the application, unless varied by a separate condition: REF: 21A0496 DWG No: 21A0496 PROP(A) REVISION: A) by Alexander Symonds Surveying Consultants, Dated 10/02/2021.

Planning Notes

(1) Development Plan Consent

This Development Applications is valid for a period of twenty four (24) months commencing from the date of the decision.

Council Land Division Statement of Requirements

Nil

Council Land Division Notes

Nil

SCAP Land Division Statement of Requirements

(1) Requirement For Certified Survey Plan

A final plan complying with the requirements for plans as set out in the Manual of Survey Practice Volume 1 (Plan Presentation and Guidelines) issued by the Registrar General to be lodged with the State Commission Assessment Panel for Land Division Certificate purposes.

SCAP Land Division Notes

Nil

9. ATTACHMENTS

Locality Plan
Proposal Plans
Referral Responses

Respectfully submitted

Concurrence

Damon Huntley
Statutory Planner

Deryn Atkinson
Assessment Manager